



May 14, 2009

James R. Bellis, Tribal Attorney  
The Suquamish Tribe  
P.O. Box 498  
Suquamish, WA 98392-0498

RE: The Suquamish Tribe submitted gaming ordinance amendment

VIA FASIMILE 360-394-8501

Dear Mr. Bellis:

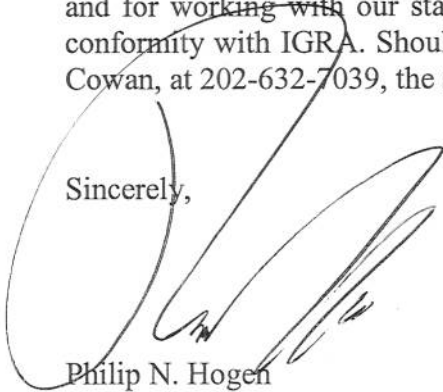
This letter responds to your request to the National Indian Gaming Commission (NIGC) for the review and approval of an amended Suquamish Tribal Gaming Ordinance that was received March 5, 2009. The original Tribal Gaming Ordinance was approved on January 5, 1996. A subsequent amendment was approved on January 4, 2006.

This amendment to the Suquamish Tribal Gaming Ordinance was adopted by the Suquamish Tribal Council by Resolution No. 2008-201, dated December 15, 2008. This letter constitutes approval of this amended Gaming Ordinance as submitted pursuant to the Indian Gaming Regulatory Act (IGRA).

However, it is important to note that the gaming ordinance is approved for gaming only on Indian lands, as defined in the IGRA, over which the Tribe exercises jurisdiction. Furthermore, this approval does not constitute approval of specific games.

Thank you for submitting this amendment to the Suquamish Gaming Ordinance and for working with our staff to assure that this version is comprehensive and in full conformity with IGRA. Should you have any questions or concerns, please contact Toni Cowan, at 202-632-7039, the staff attorney assigned to this matter.

Sincerely,



Philip N. Hogen  
Chairman

cc: Leonard Forsman, Chairman, Suquamish Tribal Council

COPY

THE SUQUAMISH TRIBE  
PORT MADISON INDIAN RESERVATION  
RESOLUTION #94-172

**WHEREAS**, the Suquamish Tribal Council is the duly constituted governing body of the Port Madison Indian Reservation by authority of the Constitution and Bylaws for the Suquamish Tribe of the Port Madison Indian Reservation, Suquamish, Washington, as approved July 2, 1965, by the Under-Secretary of the Interior; and,

**WHEREAS**, under the Constitution and Bylaws of the Tribe, the Suquamish Tribal Council is charged with the duty of protecting the health, security, and general welfare of the Suquamish Tribe and all Reservation residents; and,

**WHEREAS**, the Suquamish Tribe, as a federally recognized Indian Tribe; and,

**WHEREAS**, the Indian Regulatory Gaming Act provides that Indian Tribes have the right to operate Class III casino style gaming facilities, however, the Tribe must negotiate a Compact with the State in which the Tribe is located for the regulation of such activities prior to commencing operation of any gaming activities; and,

**WHEREAS**, the Suquamish Tribe's General Council determined that it is in the best interest of the Tribe to operate a Class III gaming facility on the reservation and directed its Tribal Council to negotiate a Compact with the State of Washington; and,

**WHEREAS**, the Suquamish Tribal Council has negotiated a Compact with the State of Washington, such Compact is in its final draft form and has been reviewed by all Tribal Council members; and,

**WHEREAS**, the Suquamish Tribal Council has fully discussed the terms of the final draft Compact and finds the terms as negotiated to be acceptable and finds the Compact meets the needs and requirements of the General Council's directive;

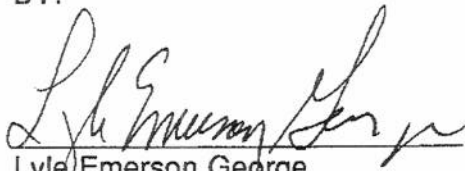
**NOW, THEREFORE, BE IT RESOLVED THAT THE SUQUAMISH TRIBAL COUNCIL:**

1. Approves and accepts the final draft Compact presented to the Council; and,
2. Directs and authorizes the Tribal Council Chairman and his delegates to take whatever steps are necessary to finalize and execute the Compact on behalf of the Suquamish Tribe.

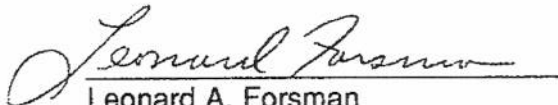
CERTIFICATION

The foregoing resolution was duly enacted by the Suquamish Tribal Council,  
meeting on this 5 day of December, 1994, by a vote of 6 FOR,  
0 AGAINST, 0 ABSTENTIONS, at which a quorum was present.

BY:

  
Lyle Emerson George  
Tribal Chairperson

ATTEST:

  
Leonard A. Forsman  
Secretary

12-9-94  
Date Mailed to BIA

CC  
Initial

**SUQUAMISH TRIBAL GAMING COMMISSION**

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18460 Augusta Ave. ~ P.O. Box 527

Suquamish, WA 98392

James Armstrong, Executive Director 360-394-8651

Kippie Joe, Executive Administrative Assistant 360-394-8652

May 12, 2009

Honorable Philip N. Hogen, Chairman

National Indian Gaming Commission

1441 L Street, Suite 9100

Washington, DC 20005

Attention: Antonia Z. Cowan, Esq.

VIA FACSIMILE: 202-632-7066

Dear Chairman Hogen:

I am writing to you on behalf of the Suquamish Tribe to confirm that pursuant to Suquamish Tribal Code Chapter 11.5.94, the Suquamish Tribal Gaming Commission has designated the Chairman of the Suquamish Tribe as the Tribe's agent for service of process. This designation has remained unchanged since 1995. The address for service is:

Chairman, The Suquamish Tribal Council

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Post Office Box 498

Suquamish, WA 98392-0498

Phone (360) 598-3311

Fax (360) 598-6295

Sincerely,

Tina Jackson, Chairman

The Suquamish Tribal Gaming Commission

Cc: Leonard Forsman, Chairman, the Suquamish Tribal Council

James W. Armstrong, Director, the Suquamish Tribal Gaming Commission

James R. Bellis, Director, Suquamish Tribe Legal Department



## TITLE 11. COMMERCE

### Chapter 11.5

#### GAMING

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**11.5.1. Title.** The ordinance codified in this chapter shall be known as the “Suquamish Gaming Ordinance.” (Res. 95-031 (part), passed Apr. 3, 1995)

**11.5.2. Authorization.** This chapter, governing the conduct and regulation of gaming activities within the Port Madison Reservation and other tribally owned land, is authorized by the Indian Gaming Regulatory Act, PL 100-447, 25 USC 2703 (“IGRA”) and by regulations promulgated by the National Indian Gaming Commission at 25 CFR 502 (as published in the Federal Register at 57 FR 12382-12393, April 9, 1992). (Res. 95-031 (part), passed Apr. 3, 1995)

**11.5.3. Findings.** The Suquamish Tribal Council finds that:

(a) The Suquamish Tribe has the sovereign right and exclusive authority to regulate Class I and Class II gaming activities on Suquamish Indian lands;

(b) The Suquamish Tribe has the sovereign right to operate, license, and regulate Class III gaming activities on Suquamish Indian lands, provided it operates its Class III gaming activities consistent with a compact entered into between the tribe and the State of Washington;

(c) The raising of funds for the promotion of tribal government and social programs and/or bona fide charitable or nonprofit organizations through gaming activities on Suquamish Indian lands is in the tribal and public interest;

(d) The exercise of tribal sovereign power through this ordinance is necessary to protect the right of tribal self-government and to regulate its internal relations so as to protect its political and economic security; and

(e) It is essential to the health, safety, and general welfare of the Suquamish Tribe and to visitors of the Port Madison Reservation that standards and regulations be promulgated to govern the conduct of gaming activities on Suquamish Indian lands. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201 (part), passed Dec. 15, 2008)

**11.5.4. Interpretation.** (a) This chapter shall be deemed an exercise of the sovereign power of the Suquamish Indian Tribe, and all provisions of this chapter shall be liberally construed for the accomplishment of the statement of purpose.

(b) Any ambiguity in this chapter or in any rules or regulations hereafter promulgated pursuant to this chapter shall be resolved so as to be consistent with IGRA and other applicable tribal and federal law. (Res. 95-031 (part), passed Apr. 3, 1995)

**11.5.5. Statement of Purpose.** The purposes of this chapter are to:

(a) Govern, regulate, and provide standards for the operation, conduct, and playing, on Suquamish Indian lands, of Class I and Class II gaming, as defined by the Indian Gaming Regulatory Act of 1988, 25 USC 2701 et seq., and Class III gaming, as defined by the same act and as authorized by and pursuant to the provisions of the tribal-state compact entered into in compliance with the Act;

(b) Strengthen the existing economy of the Suquamish Indian Tribe and promote tribal economic development;

(c) Enhance employment opportunities for tribal members; and

(d) Generate revenue for use in the improvement of the health, education, and welfare of tribal members. (Res. 95-031 (part), passed Apr. 3, 1995)

**11.5.6. Definitions.** (a) "Act" or "IGRA" means the Indian Gaming Regulatory Act, Public Law 100-497, codified as 25 USC 2701 et seq.

(b) "Bingo" means the game of chance (whether manual, electronic, computer, or otherwise technologically assisted) which is played for prizes, including monetary prizes, with cards bearing numbers or other designations, in which the holder of the card covers such numbers or designations when objects similarly numbered or designated are drawn or electronically determined, and in which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards.

(c) "Class I gaming" means and shall include social and traditional games played for prizes of minimal value and traditional forms of Indian gaming engaged in by individuals as part of or in connection with Suquamish Tribal ceremonies or celebrations.

(d) "Class II gaming" means and shall include all forms of gaming which are defined as "Class II gaming" in IGRA, 25 USC 2703(7)(A), and the regulations promulgated by the National Indian Gaming Commission at 25 CFR 502.3 (as published in the Federal Register at 57 FR 12382-12393, April 1992). This definition shall include but shall not be limited to the following forms of games: bingo; pull-tabs, Lotto or other lotteries, punchboards, tip jars, instant bingo, speed bingo, and other games similar to or which are a form of bingo if played in the same location; and nonbanking card games, when played in conformity with IGRA, 25 USC 2703(7).

(e) "Class III gaming" means and shall include all gaming which is not Class I or Class II, as defined in IGRA, or as authorized by judicial determination, federal regulation, or federal pronouncement and as authorized and conducted by the tribe in accordance with and pursuant to the provisions of the tribal-state compact and this chapter.

(f) "Class II gaming contract" means a contract for the provision of any goods or services for the conduct of Class II gaming.

(g) "Class III gaming contract" means a contract for the provision of any goods or services for the conduct of Class III gaming.

(h) "Class II gaming contractor" means any individual, business, or other entity that applies for or is a party to a Class II contract.

(i) "Class III gaming contractor" means any individual, business, or other entity that applies for or is a party to a Class III contract.

(j) "Commission" or "tribal gaming commission" means the Suquamish Tribal Gaming Commission established by this chapter.

(k) "Commissioner" means a member of the Suquamish Tribal Gaming Commission.

(l) "Contractor" means any contractor who manages or operates a Class II or Class III gaming operation for the tribe or is a lessor of gaming equipment or supplier of gaming services to the tribe.

(m) "Entity" means any organization and any division, department, or unit therein and includes but is not limited to a public or private corporation, partnership, joint venture, voluntary or unincorporated association, proprietorship, trust, estate, commission, bureau, or agency, except this definition shall not include the Suquamish Indian Tribe.

(n) "Game card" or "bingo game card" means a regular or special bingo card.

(o) "Gaming activities" means the conduct of gaming activities permitted pursuant to IGRA or the tribal–state gaming compact.

(p) "Gaming facility" means any premises in which Class II or Class III gaming activities as authorized by IGRA or the tribal–state gaming compact are conducted on Suquamish Indian lands. The term "premises" means the real property upon which any Class II or Class III activity is conducted, including but not limited to any and all buildings, parking areas, and lands located within the legal description of such real property.

(q) "Gaming operation" or "tribal gaming operation" means any enterprise operated by the tribe on Suquamish Indian lands for the conduct of any form of Class II or Class III gaming in any gaming facility. Where gaming is operated by a tribal department, agency, or wholly-owned corporation, the terms shall not include those portions of the department or agency which are unrelated to gaming.

(r) "Gross receipts" means the total receipts from the conduct of gaming activities.

(s) "High security employee" means any person who is employed by the gaming operation to perform one or more of the following functions:

- (1) Floor manager;
- (2) Pit boss;
- (3) Dealer;
- (4) Croupier;
- (5) Approver of credit;
- (6) Counting room supervisor;
- (7) Custodian of gaming supplies or cash;
- (8) Custodian of gaming devices, including persons with access to cash or accounting records within such devices;
- (9) Bingo caller;
- (10) Chief of security;
- (11) Any other person not otherwise included in §11.5.6(s) whose total cash compensation is in excess of fifty thousand dollars (\$50,000) per year; and



(12)The four (4) most highly compensated persons in the gaming operation if not otherwise included.

(t) "Indian lands" or "Suquamish Indian lands" means Indian lands as defined by 25 USC 2703(4)(A) and (B).

(u) "Individual" or "person" means but is not limited to natural persons and business entities, including business sole proprietorships, partnerships, corporations, joint ventures, organizations, and associations.

(v) "Key employee" means any officer or person employed by the gaming operation who can affect the course of business, who can make material decisions, or who is in a sensitive employment position.

(w) "License" or "licensed" means a tribal gaming license or having a valid tribal gaming license issued by the Suquamish Gaming Commission pursuant to the powers and authorities granted under this chapter. A tribal gaming license is a privilege and not a right and may be revoked by the commission on good cause shown after notice and an opportunity to be heard.

(x) "Lottery" means any scheme for the disposal or distribution of property among persons who have paid valuable consideration for the chance of obtaining such property or a portion or share of or interest in such property upon any agreement, understanding, or expectation that it is to be distributed or disposed of by lot or chance, whether called a lottery, raffle, or gift enterprise, or by whatever name the same may be known.

(y) "Low security employee" means any person employed by the gaming operator to work in a gaming area with no responsibility for management or operation of Class II or Class III gaming activities and no access to cash or to the interior of any gaming terminals.

(z) "Major procurement" means any procurement action or contract for any goods, services, or products involving the determination of winners in any Class III gaming activities; for the printing of tickets used in any Class III gaming activity; or for any goods or services involving the receiving or recording of number selections in any Class III gaming activity.

(aa) "Minor procurement" means any procurement action or contract related to any Class III gaming activity that is neither a major procurement nor a sensitive procurement.

(bb) "National Indian Gaming Commission" or "NIGC" means the federal gaming regulatory commission established pursuant to IGRA.

(cc) "Native American" or "Indian" means a person who is an enrolled member of a federally recognized Indian tribe.

(dd) "Net revenues" means the total gross revenues from gaming activities less all reasonable sums actually expended for operating expenses and liabilities, including but not limited to amounts paid for or paid out as prizes.

(ee) "NIGC Chairman" means the Chairman of the National Indian Gaming Commission.

(ff) "Nonbanking card game" means any card game in which two or more players play against each other and the players do not wager against the house. Nonbanking card games played in conformity with state law regulating such are Class II gaming. All other nonbanking card games are Class III games.

(gg) "Player" means any person paying some amount of United States currency to the tribe for admission to or participation in Class II or Class III gaming activity and who is participating with the reasonable expectation of or the chance of receiving a prize of some value as a result of participating in, playing, or wagering on such game.

(hh) "Primary management official" means any person employed by the gaming operation who:

- (1) Has management responsibility for a management contract;
- (2) Has the authority to hire and fire employees;
- (3) Has the authority to set up working policy for the gaming operation; or
- (4) Has financial management responsibility, including but not limited to the chief financial officer.

(ii) "Principal" means with respect to any enterprise:

- (1) Each of its officers and directors;
- (2) Each of its key management employees, including any chief executive officer, chief financial officer, chief operating officer, or general manager;
- (3) Each of its owners or partners, if an unincorporated business;
- (4) Each of its shareholders who own more than ten percent (10%) of the share of the corporation, if a corporation; and
- (5) Each person or entity other than a banking institution that has provided financing for the enterprise constituting more than ten percent (10%) of the start-up capital or operating capital over a twelve-month period or any combination thereof.



(jj) "Prize" means any United States currency, cash, or other property or thing of value awarded to or received by a player or players as a result of their participation in a gaming activity.

(kk) "Pull-tabs" means factory-covered tickets which are purchased and opened by customers and which reveal a predetermined winning arrangement.

(ll) "Punchboard" means a small board which has many holes, each filled with a rolled up, printed slip to be punched out upon payment of a player fee in an effort to obtain a slip that entitles the player to a predesignated prize.

(mm) "Regular bingo card" means a paper card or board issued to a person or a game card generated by and appearing on the screen of a computer employed by the gaming facility and assigned to a player which, upon payment of an admission fee, affords the person an opportunity to participate in all regular bingo games played at a bingo occasion.

(nn) "Secretary" means the Secretary of the United States Department of the Interior.

(oo) "Sensitive procurement" means any procurement action or contract for goods or services, other than a major procurement, that may either directly or indirectly affect the integrity, security, honesty, and fairness of the operation and administration of Class II or Class III gaming. A typical example of this class of procurement is the acquisition of security systems required to protect the security and integrity of Class II or Class III gaming.

(pp) "Special bingo card" means a disposable, specially marked bingo card or a game card generated by and appearing on the screen of a computer employed by the gaming facility and assigned to a player which affords a person the opportunity to participate in a special bingo game for special prizes.

(qq) "Special bingo game" means any bingo game which is not a regular bingo game and which is played with special bingo cards whether or not for special prizes.

(rr) "State" means the State of Washington.

(ss) "State gaming agency" means the Washington State Gambling Commission.

(tt) "Tribal council" or "Suquamish Tribal Council" means the governing body of the Suquamish Tribe as set forth in the Suquamish Tribe's Constitution and Bylaws.

(uu) "Tribal court" means the Suquamish Tribal Court.

(vv) "Tribal gaming inspector" means an enforcement officer hired by the tribal gaming commission and authorized by this chapter to enforce its provisions and the provisions of the tribal–state gaming compact, including the right to detain and/or arrest individuals. Gaming inspectors are the only persons authorized to carry and/or display badges as tribal gaming enforcement agents on Suquamish Indian lands. Gaming inspectors, under the direction of the director of the Suquamish Gaming Commission, shall regulate and monitor the day-to-day operations of any tribal gaming facility.

(ww) "Tribal gaming operator" means any person or entity operating a tribal gaming operation on behalf of or under contract with the Suquamish Indian Tribe.

(xx) "Tribal member" means an enrolled member of the Suquamish Tribe.

(yy) "Tribal–state gaming compact" means the compact between the Suquamish Indian Tribe and the State of Washington regulating Class III gaming activities on Suquamish Indian lands.

(zz) "Tribe" or "Suquamish Tribe" means the Suquamish Indian Tribe, recognized by the United States Government in 1965 and having the special rights of self-government. This definition includes all tribal agencies and officials. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 96-006 (part), passed Jan. 16, 1996; amended by Res. 2008-201 (part), passed Dec. 15, 2008)

**11.5.7. Class I Gaming Authorized.** Class I gaming is hereby authorized on Suquamish Indian lands and may be conducted by any person. Class I gaming shall not be regulated by this chapter. (Res. 95-031 (part), passed Apr. 3, 1995)

**11.5.8. Class II Gaming Authorized.** (a) Class II gaming is hereby authorized on Suquamish Indian lands. Class II gaming shall be regulated by the tribal gaming commission and shall only be operated at gaming facilities on Indian lands in a manner consistent with the provisions of this chapter and IGRA.

(b) A tribal gaming operator or any manager under contract to manage a tribal Class II gaming facility may conduct bingo, nonbanking card games, and other Class II gaming activities. (Res. 95-031 (part), passed Apr. 3, 1995)

**11.5.9. Class III Gaming Authorized.** (a) Class III gaming is hereby authorized on Suquamish Indian lands. Class III shall be regulated by the tribal gaming commission and shall only be operated in a manner consistent with this chapter, the tribal–state gaming compact, and IGRA.

(b) The tribal gaming operator or any manager under contract to manage the tribal Class III gaming facility may conduct any Class III game permitted in the tribal–state gaming compact.

(c) The tribal gaming operator or any manager under contract to manage the tribal Class III gaming facility may conduct any Class III game which is legalized within the State of Washington after the date of the compact then in effect or which becomes permitted on Indian lands pursuant to federal law or federal regulation, through a consensual lawsuit, or by court decision, provided that prior to commencing the play of such games, the gaming operator complies with the terms of the tribal–state gaming compact regulating the playing of new games. (Res. 95-031 (part), passed Apr. 3, 1995)

**11.5.10. Unauthorized Gaming Prohibited.** Gaming by any person, party, or other entity on any lands subject to the jurisdiction of the Suquamish Indian Tribe except as authorized pursuant to this chapter is prohibited and declared unlawful. (Res. 95-031 (part), passed Apr. 3, 1995)

**11.5.11. Ownership of Gaming Operation.** (a) The Suquamish Tribe shall have the sole proprietary interest in and authority and responsibility for the conduct of any Class II gaming operation authorized by this chapter.

(b) The Suquamish Tribe shall have the sole proprietary interest in and responsibility for the conduct of any Class III gaming conducted on Suquamish Indian lands authorized by this chapter and the tribal–state gaming compact.

(c) Individually owned gaming operations are prohibited, except individually owned Class II pull-tab operations and state lottery ticket sales outlets existing as of the enactment date of this chapter are grandfathered under this provision.

(d) No license to own or operate any Class II or Class III gaming shall be issued to any person or entity other than the Suquamish Indian Tribe. (Res. 95-031 (part), passed Apr. 3, 1995)

**11.5.12. Management, Finance, and Construction Contracts.** (a) The Suquamish Tribal Council or its authorized agents shall have the authority to enter into construction, consulting, or other contracts necessary to operate, build, and maintain Class II or Class III gaming activities on Suquamish Indian lands, including the authority to enter engineering, architectural, and environmental assessment agreements preliminary thereto, provided all such contracts are in conformity with applicable tribal and federal laws, rules, and regulations then in effect.

(b) The Suquamish Tribal Council or its authorized agents shall have the authority to enter into finance contracts relating to Class II or Class III gaming activities on Suquamish Indian lands, provided no financing contract exceeding one million and five hundred thousand dollars (\$1.5 million) is valid to bind the Suquamish Tribe without the prior approval of the tribal council.

(c) The Suquamish Tribal Council or its authorized agents shall have the authority to lease gaming equipment, provided such leases are in conformity with IGRA,

the provisions of this chapter, and any other applicable tribal and federal laws, rules, and regulations then in effect.

(d) The Suquamish Tribal Council or its authorized agents may enter into a contract with an individual manager or managers or with a management company for the operation and management of Class II or Class III gaming activities. Each such contract must comply with IGRA, the provisions of this chapter, and other applicable provisions of tribal and federal law, rules, and regulations then in effect. (Res. 95-031 (part), passed Apr. 3, 1995)

**11.5.13. Net Revenue Tax.** There shall be a tribal tax upon the net revenue of any Class II or Class III gaming activity within the jurisdiction of the tribe, in an amount to be determined by the tribal council. The tribal tax shall be assessed and paid monthly into the Suquamish Indian Tribe general fund. Net revenues, for the purposes of this section, shall mean gross gaming revenues less amounts paid out as or paid for prizes and total gaming-related operating expenses, excluding any management contract fees. The tribal council may reduce or waive such tax as is necessary to promote economic development on the Port Madison Reservation. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-021 (part), passed Dec. 15, 2008)

**11.5.14. Use of Gaming Revenue.** Net revenues from Class II and Class III gaming shall be used only for the following purposes:

- (a) To fund tribal government operations, programs, or businesses;
- (b) To provide for the general welfare of the tribe and its members;
- (c) To promote tribal economic development;
- (d) To donate to charitable and/or nonprofit organizations; and

(e) To fund, in whole or in part, operations of local government agencies affected by gaming activities. (Res. 95-031 (part), passed Apr. 3, 1995)

**11.5.15. Suquamish Gaming Commission – Establishment.** The Suquamish Tribal Council is authorized to establish a Suquamish Tribal Gaming Commission and to designate five (5) members to be its commissioners. The gaming commission shall exercise all powers necessary and proper to administer this chapter and regulations promulgated thereunder. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2005-181 (part), passed Oct. 3, 2005; amended by Res. 2008-021 (part), passed Dec. 15, 2008)

**11.5.16. Terms for Commissioners.** Appointment of commissioners shall be for a period of three (3) years, except that of the initial commissioners, one commissioner shall be appointed for one year, one for two years, and one for three years, and of the two commissioners added in 2005, one shall be appointed for one year and one for two

years, in order to achieve a staggered appointment schedule and to provide continuity within the commission. The commissioners may be reappointed for one or more successive terms. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2005-181 (part), passed Oct. 3, 2005)

**11.5.17. Minimum Qualifications for Commissioners.** (a) The gaming commissioners shall possess and demonstrate as minimum qualifications:

(1) Knowledge of, experience in, or familiarity with business management;  
or

(2) Knowledge of and experience in administration and administrative procedure.

(b) The gaming commissioners shall also possess or express a willingness to acquire:

(1) Knowledge of and experience in the commercial gaming industry;

(2) Familiarity with IGRA; and

(3) Knowledge of and experience in law enforcement. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2005-181 (part), passed Oct. 3, 2005; amended by Res. 2008-201 (part), passed Dec. 15, 2008)

**11.5.18. Appointment of Commissioners.** (a) Gaming commissioners shall be appointed from among the tribe's general council membership. At least one Suquamish Tribal Council member shall be appointed to the gaming commission. The tribal council may, at its option, appoint one non-member Indian or a non-Indian where such person has demonstrated expertise in critical areas of gaming regulation or law enforcement. The gaming commission shall insure that commissioners who are tribal members are trained to assume full responsibility to regulate the tribal gaming facility as soon as practicable.

(b) No person shall be appointed to the gaming commission unless the tribal council is satisfied that such nominee:

(1) Is a person of good character, honesty, and integrity, whose prior activities, criminal record, if any, reputation, habits, and associations do not pose a threat to the public interest of the tribe, to its members, or to the effective regulation of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto; and



(2) Has no interest in any private gaming activity on Suquamish Indian lands or any activity which may have interests which conflict with the tribal gaming operation.

(c) A tribal council member who also serves as a gaming commissioner shall promptly vacate his or her position with the gaming commission in the event he or she no longer serves on the tribal council for any reason, including voluntary resignation, recall, non-reelection, serious illness, or death. The tribal council shall appoint another tribal council member as a gaming commissioner to fulfill the remaining term of the vacated position.

(d) Upon appointment but prior to sitting as a commissioner, each appointee must pass a drug test, a criminal background investigation, and a credit background investigation. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 96-006 (part), passed Jan. 16, 1996; amended by Res. 2005-181 (part), passed Oct. 3, 2005; amended by Res. 2008-201 (part), passed Dec. 15, 2008)

**11.5.19. Commissioners – No Financial Interest in Gaming.** No commissioner shall have any direct or indirect financial interest in the Class II or Class III gaming activities. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2005-181 (part), passed Oct. 3, 2005; amended by Res. 2008-201 (part), passed Dec. 15, 2008)

**11.5.20. Commissioners – Compensation.** Tribal gaming commissioners shall receive, at minimum, a stipend or be reasonably compensated, as determined by the tribal council in its annual tribal budgeting process. Any stipend or compensation shall be paid from the tribe's income from gaming activities, including taxes and profits paid to the tribe from the Class II and Class III gaming activities. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2005-181 (part), passed Oct. 3, 2005)

**11.5.21. Removal of Commissioners.** A gaming commissioner may be removed for good cause by a majority of all tribal council members after written notice specifying the cause for removal and an opportunity to be heard by the tribal council. Good cause includes but is not limited to repeated failure to attend commission meetings, neglect of duty, abusing the powers or privileges of the office, conflict of interest, and engaging in criminal acts. The decision of the tribal council on such removal shall be final and not subject to judicial review except that an appeal to tribal court may be maintained exclusively on the grounds that the commissioner's rights to due process of law were denied by the Suquamish Tribal Council. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2005-181 (part), passed Oct. 3, 2005; amended by Res. 2008-201 (part), passed Dec. 15, 2008)

**11.5.22. Commission Administration – Purpose, Responsibilities, and Powers.** The commission is established and authorized as a regulatory agency of the tribe.

(a) Consistent with the purposes and requirements of this chapter, IGRA, applicable federal regulations, and in the case of Class III gaming the tribal-state

compact, the commission shall license and regulate the conduct of Class II and III gaming activities on Suquamish Indian lands. The commission shall establish and maintain personnel policies and procedures, training and operations procedures, and a budget for its operations, and if requested by the tribal council shall rate the performance of the tribal gaming agency or any manager or management company with whom the tribal gaming operator or its authorized agent has an approved contract.

(b) Consistent with the purpose and requirements of this chapter, IGRA, and applicable federal regulations, the commission shall license and regulate all gaming operations within Suquamish Indian lands which conduct Class II pull-tab gaming and sell state lottery tickets.

(c) Neither the members of the commission nor their staff shall interfere with or become involved in the day-to-day management of any gaming facility.

(d) Neither the members of the commission nor their staff shall participate as players in any Class II or Class III game played within the jurisdiction of the Suquamish Tribe.

(e) The commission, in order to accomplish its regulatory function on behalf of the Suquamish Tribe, where it deems appropriate, may:

(1) Execute contracts and interlocal agreements, papers, and documents in the name of the commission, honoring related contracts heretofore entered into by the Suquamish Tribal Council related to the business of the commission.

(2) Verify the functionality, authenticity, and legal conformity of all equipment for the operation of Class II and Class III gaming as provided in this chapter.

(3) Authorize the Suquamish Tribal government to establish and operate by itself or through its authorized agent all Class II and Class III gaming activities on Suquamish Indian lands. The tribe shall have sole proprietary interest and responsibility for the conduct of any Class II or Class III gaming activity, with the exception of existing gaming activities specifically grandfathered pursuant to §11.5.11(c) of this chapter.

(4) Pay all customs, duties, excises, charges, and obligations whatsoever related to the business of the commission.

(5) Require and approve the rules of play for each Class II and Class III game permitted.

(6) License, inspect, and oversee all gaming activities and persons employed in gaming activities conducted on Suquamish Indian lands.

(7) Establish systems:

(A) To adequately check the background of primary management officials and key employees of the gaming enterprise;

(B) To monitor primary management officials, key employees, and high security employees on a continuing basis; and

(C) To provide for the verification of background check results provided by the NIGC before any licenses are issued for Class II or Class III gaming.

(8) Ensure that Class II gaming facilities are operated in compliance with this chapter and IGRA.

(9) Ensure that Class III gaming facilities are operated in compliance with this chapter, the tribal-state gaming compact, and IGRA.

(10) Ensure the physical safety of patrons in gaming facilities.

(11) Ensure the physical safety of personnel employed by the gaming operation.

(12) Ensure the physical safeguarding of assets transported to and from the gaming facility and the cashier's cage department.

(13) Protect the patrons' and the gaming operation's property from illegal activity.

(14) Temporarily detain, to the extent of its authority under this chapter and until notification of the appropriate law enforcement authorities, persons who may be involved in illegal acts.

(15) Carry on a continuous study and investigation of Class II and Class III gaming on Suquamish Indian lands for the following purposes:

(A) To ascertain any defects in or abuses of the standards and regulations in this chapter and of any and all applicable rules and regulations;

(B) To formulate recommendations for changes in the standards and regulations in this chapter and in any and all applicable rules and regulations; and



(C) To prevent abuses and evasions of the standards and regulations prescribed by this chapter and applicable rules and regulations.

(16) Report to the tribal council on any matter related to gaming which is deemed by the tribal gaming commission to constitute an emergency requiring immediate action.

(17) Take any action it deems necessary and appropriate for violation(s) of this chapter, applicable rules, or regulations, including but not limited to license suspension, license revocation, prosecution, referral for prosecution, or civil suit.

(18) Employ such employees as are necessary to carry out the specific and general powers and duties of the tribal gaming commission, including but not limited to an executive director, gaming inspectors, and necessary support staff. Commission employees shall meet all license requirements of high security employees. All such employees shall be subject to the Suquamish Tribe's personnel policies and procedures, except to the extent that the commission staff's unique mission requires deviation from those policies. All commission policies and procedures related to employees of the commission shall be in writing, be approved by the commission, and be approved by the Suquamish Tribal Council.

(19) Establish systems to log and record, in a permanent and detailed manner:

(A) A security log recording any and all unusual occurrences at any gaming facility that require further investigation under the terms of the tribal-state gaming compact; and

(B) A surveillance log, as written or computerized records, recording all surveillance activities in the monitoring room of the gaming facility.

(20) Perform all matters and things directly or indirectly necessary to conduct its business and carry out its duties and functions.

(21) Perform all other duties related to the conduct and operation of the powers and duties authorized by this chapter. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-021 (part), passed Dec. 15, 2008)

**11.5.23. Promulgation of Regulations.** It shall be the responsibility of the Suquamish Tribal Gaming Commission to promulgate regulations necessary to administer this chapter and to perform its functions, including the enforcement provisions and penalties authorized under this chapter. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-021 (part), passed Dec. 15, 2008)

**11.5.24. Meetings – Schedule, Quorum, Notice.** The commission shall regularly meet twice monthly. The commission shall also meet at the request of two (2) members of the commission or the chairperson of the tribal council. A quorum shall be three (3) members. Voting shall be by majority. Notice of the meetings shall be given to commission members and to the tribal council at least five (5) days prior to the meeting except in the case of an emergency or special meeting. An agenda shall be established. Minutes shall be recorded, filed, and maintained for three (3) years. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 96-006 (part), passed Jan. 16, 1996; amended by Res. 2005-181 (part), passed Oct. 3, 2005; amended by Res. 2008-021 (part), passed Dec. 15, 2008)

**11.5.25. Reporting.** The commission shall cause a monthly report, approved by the commission, to be submitted by the fifteenth day of the following month to the tribal council to include information on each of the commission's responsibilities. The monthly report shall include a financial statement for the month just ended. Biannually, the commission shall submit a cumulative report to the tribal council on the performance of any tribal department, approved manager, or management company with which the tribe or its authorized agent has an approved gaming contract. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201 (part), passed Dec. 15, 2008)

**11.5.26. Annual Audits.** (a) The tribal gaming operator shall cause to be conducted annually an independent audit of its Class II and Class III gaming operations and shall submit the resulting audit reports to the tribal gaming commission, to the tribal council, and to the extent required by the tribal-state compact, IGRA, or other applicable federal law, to the National Indian Gaming Commission. The audit reports shall be made available to federal agencies authorized by federal law to obtain copies of the results of those audits. All audits shall be deemed to be confidential and proprietary information and not subject to disclosure without the express written approval of the tribal gaming commission.

(b) Audit(s) shall be conducted by an independent auditing firm, selected at the discretion of the gaming operator's chief financial officer. Nothing in this paragraph shall prohibit the annual audit of tribal gaming activities from being encompassed within the tribe's existing audit system.

(c) All gaming related contracts which result in the purchase of supplies, services, or concessions in excess of twenty-five thousand dollars (\$25,000) annually, except for professional, legal, or accounting contracts, shall be specifically included within the scope of the annual independent audits. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-021 (part), passed Dec. 15, 2008)

**11.5.27. Gaming Inspectors.** (a) The tribal gaming commission shall employ as many tribal gaming inspectors as it deems necessary to ensure full enforcement of this chapter.

(b) Tribal gaming inspectors may be present in any Class II gaming facility during all operating hours of the gaming operation. Tribal gaming inspectors shall have immediate access to any and all areas of any Class II gaming operation for the purposes of ensuring compliance with this chapter and IGRA.

(c) At least one tribal gaming inspector shall be present in the Class III gaming facility during all operating hours of the gaming operation and shall have immediate access to any and all areas of the gaming operation for the purposes of ensuring compliance with this chapter and with the tribal–state gaming compact.

(d) Tribal gaming inspectors shall immediately report to the tribal gaming commission any violation of this chapter, the tribal–state gaming compact, IGRA, or other law, chapter, or regulation by the gaming operation, a gaming employee, or any person on the premises, whether or not associated with the gaming operation.

(e) The tribal gaming commission shall forward a report of any Class III gaming violation to the state gaming agency on a continuing basis. (Res. 95-031 (part), passed Apr. 3, 1995)

**11.5.28. Investigation of Violations and Sanctions.** (a) The tribal gaming commission shall investigate any reported violation of this chapter, the tribal–state compact provisions, IGRA, or any other applicable law, ordinance, or regulation.

(b) In the event a violation is found, the tribal gaming commission shall require the gaming operator or manager to correct the violation upon such terms and conditions as the commission determines are necessary. In addition, the tribal gaming commission may impose fines or other sanctions as provided in this chapter against any gaming employee or any person directly or indirectly involved in or benefiting from the violation.

(c) The tribal gaming commission shall forward copies of all completed investigation reports and final dispositions concerning Class III gaming violations to the state gaming agency on a continuing basis.

(d) The tribal gaming commission may request the state gaming agency to assist in any investigation of Class III gaming violations or to provide related investigation services. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201 (part), passed Dec. 15, 2008)

**11.5.29. Meetings with State Gaming Agency.** (a) The tribal gaming commission shall meet with the state gaming agency at least once a year for the purpose of reviewing existing practices and examining methods to improve the regulatory program created by the tribal–state gaming compact.

(b) The tribal gaming commission shall follow the protocol established in the tribal–state gaming compact in initiating and conducting meetings with the state gaming

agency. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201 (part), passed Dec. 15, 2008)

**11.5.30 Gaming Facility.** (a) To ensure that the environment, public safety, public health, and tribal welfare are adequately protected, the tribal gaming facility shall be constructed, maintained, and operated in compliance with applicable tribal and federal laws, including but not limited to fire, health, life safety, and building codes.

(b) The tribal gaming facility shall be subject to inspection annually or more frequently as the tribal gaming commission determines necessary and appropriate. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201 (part), passed Dec. 15, 2008)

**11.5.31. Operation of Class II Gaming Facility.** (a) The tribal gaming operator shall obtain a facility license a minimum of once every three (3) years as a condition of operating a Class II gaming facility.

(b) Class II gaming may be conducted each and every day of the week and at such hours of the day or night as determined in the exercise of the tribe's sole discretion. There shall be no limit as to prize money for any single gaming activity, bingo game, or session except as determined in the exercise of the tribe's sole discretion.

(c) Prior to commencing operation of a Class II game or making any material change in the operation, the tribal gaming operator shall notify the tribal gaming commission of the hours and days that its facility will be open and of the gaming that will be conducted. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201 (part), passed Dec. 15, 2008)

**11.5.32. Operation of Class III Gaming Facility.** (a) The tribal gaming operator of a Class III gaming facility shall obtain a facility license a minimum of once every three (3) years as a condition of operating a Class III gaming facility.

(b) Class III gaming may be conducted to the maximum allowed by and in conformance with the hours and days provided in the tribal-state compact or any amendment thereto.

(c) Prior to commencing operation of a Class III game or making any material change in operation, the operator of the Class III gaming facility shall notify the tribal gaming commission of the proposed hours and days that its facility will be open and of the gaming that will be conducted. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201 (part), passed Dec. 15, 2008)

**11.5.33. Record Maintenance.** (a) The tribal gaming operator shall maintain accurate and up-to-date records for each Class II and Class III gaming activity conducted.

of: (b) Records for each Class II and Class III gaming activity shall include records

(1) All financial transactions, including but not limited to gross receipts, payouts for prizes whether in cash or merchandise, any and all operating expenses, and net profits.

(2) All gaming machine testing, malfunctions, maintenance, and repairs.

(3) Personnel.

(4) Complaints of patrons and resolutions thereof.

(5) In-house investigations of incidents or accidents of any kind.

(6) Actions by the gaming facility against players or facility visitors.

(7) Actions by the gaming facility against or reprimanding employees where the reprimand is directly related to an alleged violation of this chapter, the regulations promulgated hereunder, IGRA, or the tribal-state compact. All other personnel records of the gaming operator shall be maintained or destroyed pursuant to the gaming operator's internal policies and procedures.

(8) Tax records or information provided to the tribal, state, or federal government as required by tribal or federal law.

(c) Records for each Class III gaming activity shall also include any information required to be kept under the terms of the tribal-state compact.

(d) All such records shall be maintained for a minimum of at least two (2) years unless a longer period of time is required by the tribal-state compact or another tribal or federal law. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201 (part), passed Dec. 15, 2008)

**11.5.34. Prohibition on Per Capita Payments.** The tribe may make per capita payments to tribal members only upon approval of a plan submitted to the Secretary of the Interior pursuant to IGRA 25 USC 2710(b)(3). (Res. 95-031 (part), 7 passed Apr. 3, 1995)

**11.5.35. Prohibition on Minors, Employees, and Contractors.** (a) No person under the age of eighteen (18) years shall be permitted to play any Class II or Class III game.

(b) Where alcoholic beverages are offered in any Class II or Class III gaming facility, all such alcoholic beverages shall be offered in accordance with all applicable laws.



(c) No person who is a director or equivalent position in any department of a Class II or Class III gaming facility, who is employed in the compliance department of a Class II or Class III gaming facility, or who is employed as part of the executive management of a Class II or Class III gaming facility (which for these purposes shall be the chief executive officer, chief financial officer, Class II or Class III gaming facility general manager or assistant general manager, and comptroller), whether on a full-time, part-time, or contract basis, may play any games conducted in any gaming facility. All other employees of any gaming facility while not on the clock and while out of uniform may play any games that are not part of their department. By special exception to this section, poker employees while off the clock may participate in a Class II or Class III poker game and while on the clock may participate in a Class II or Class III poker game as a "proposition player" using their own money for wagering. A proposition player participates in a poker game at the request of a customer in order to facilitate or to keep the game in play.

(d) No political appointee of the gaming operation shall be excluded from Class II or Class III gaming unless otherwise prohibited by this chapter. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 96-006 (part), passed Jan. 16, 1996; amended by Res. 96-063 (part), passed Jul. 1, 1996; amended by Res. 97-021, passed Feb. 24, 1997; amended by Res. 2000-026, passed Jun. 19, 2000; amended by Res. 2008-201 (part), passed Dec. 15, 2008)

**11.5.36. Prohibition on Firearms.** No person shall possess firearms within any Class II or Class III gaming facility, except as provided in this section. The tribal gaming commission shall place a notice of this prohibition near the entrance to each gaming facility. This prohibition does not apply to lawfully commissioned tribal gaming inspectors; to authorized agents or officers of the tribal law enforcement agency or the state gaming agency; or to authorized agents or officers of federal, state, or local law enforcement agencies authorized by law or by a cooperative, mutual aid, cross-deputization agreement or memorandum of understanding entered into with the tribe. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201 (part), passed Dec. 15, 2008)

**11.5.37. Bona Fide Employees.** All persons involved in the conduct of Class II or Class III gaming must be bona fide employees of the tribal gaming operator. (Res. 95-031 (part), passed Apr. 3, 1995)

**11.5.38. Identification Tags.** All persons assisting in, operating, or conducting any Class II or Class III game shall wear in plain view and affixed to their uniforms a legible identification tag issued by the tribal gaming commission. The tag shall include the person's photograph, first name, an identification number unique to the individual's tribal gaming license, a tribal seal or signature, and a date of expiration. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201 (part), passed Dec. 15, 2008)

**11.5.39. Prizes: Taxing and Reporting to the Internal Revenue Service.** The provisions of the United States Internal Revenue Code concerning the taxation and reporting of

withholding of taxes with respect to prizes or winnings from gaming or wagering pursuant to the operation of Class II or Class III gaming operated on the Port Madison Reservation shall be observed and complied with by the tribe's gaming operations. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201 (part), passed Dec. 15, 2008)

**11.5.40. Assignment and Forfeiture of Prizes.** (a) The right of any person to a prize shall not be assignable except that payment of any prize may be made to the estate of a deceased prize winner or to a person pursuant to an order of the tribal court or other court of competent jurisdiction.

(b) Any unclaimed prize of a Class II or Class III gaming activity shall be retained by the gaming operator for a reasonable time after the prize is available to be claimed. The time for collecting a prize shall be established for each game and shall be prominently posted. Any person who fails to claim a prize during such time shall forfeit all rights to the prize, and the amount of the prize shall be returned to the gaming operator.

(c) Any consideration paid by and all rights to any prize won by a person under the age of eighteen (18) years or by a patron under any barring notice or by an employee while on duty or in uniform unless authorized under §11.5.35 shall be forfeited as a violation of §11.5.35. The amount of any such consideration and/or prize shall be awarded to the tribe for the purposes of charitable or problem gambling contributions consistent with the tribal-state compact. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201 (part), passed Dec. 15, 2008)

**11.5.41. Licenses for Gaming Employees, Facilities, Financiers, and Contractors.** (a) No licensing shall be required for Class I gaming.

(b) The tribal gaming commission shall have the sole and exclusive authority to license Class II gaming operations on Suquamish Indian lands which are now or may hereafter be permitted by federal law, this chapter, the tribal-state compact, or court decision.

(c) The tribal gaming commission shall have the sole and exclusive authority to license Class III gaming operations on Suquamish Indian lands which are now or may hereafter be permitted by federal law, this chapter, the tribal-state compact, or court decision.

(d) The tribal gaming commission shall ensure that the policies and procedures set forth in this section are implemented with respect to licensing of all persons employed at any Class II or Class III gaming enterprise operated on Suquamish Indian lands.

(e) The tribal gaming commission shall issue the following licenses for gaming on Suquamish Indian lands:

- (1) Gaming operation license.
- (2) Financier license.
- (3) Primary management official license.
- (4) High security license.
- (5) Low security license.
- (6) Facility license.
- (7) Class II gaming contractor's license.
- (8) Class III gaming contractor's license.

(9) Other licenses as necessary and appropriate. The commission shall not require or issue such "other licenses" except as in accordance with regulations promulgated therefore pursuant to the provisions of this chapter.

(10) "Conditional" or "provisional" licenses to enrolled tribal members who do not meet the state certification criteria in accordance with Section V(C)(6) of the tribal-state gaming compact. The commission may not issue any other form of "conditional" or "provisional" license except as in accordance with defined criteria and standards set forth in regulations promulgated therefore pursuant to the provisions of this chapter or as set out in §11.5.56(e)

(f) Licenses shall indicate the type and class of license on the face of the license. A combined Class II and Class III license may be issued if appropriate. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201 (part), passed Dec. 15, 2008)

**11.5.42. License Fees; Application and Renewal Fees.** (a) Any person or entity making application for a tribal gaming license pursuant to this chapter shall submit his, her, or its application, required forms and information, and an application fee, as established by the tribal gaming commission pursuant to this chapter.

(b) A licensee shall, at least sixty (60) days prior to the expiration of his, her, or its license, make application for renewal, as required by the tribal gaming commission, and shall submit the application, required forms and information, and a renewal fee equivalent to one hundred percent (100%) of the then prevailing license fee.

(c) The tribal gaming commission may immediately issue a license if the prospective employee has a current license or certification issued by the state gaming agency, if the state gaming agency certifies that the prospective employee is in good



standing, and if the employee consents to disclosure of his, her, or its records to the tribal gaming commission.

(d) The tribal gaming commission shall have the authority to establish the license application fees provided in this section by regulation. The basis for any such license fee shall reflect the costs incurred by the tribal gaming commission associated with the issuance of gaming licenses, including background checks.

(e) The tribal gaming commission shall be authorized to collect payment for license fees by lump sum payment, monthly payment plan, payroll deduction, or by any other means deemed appropriate by the commission. (Res. 95-031 (part), passed Apr. 3, 1995)

**11.5.43. Duration and Renewal of Tribal Gaming License.** (a) Each tribal gaming license shall be effective for one (1) year from the date of issuance.

(b) A licensed employee or entity who has timely applied for renewal of the license may continue to be employed under the expired tribal gaming license until the tribal gaming commission takes action on the renewal application.

(c) Applicants seeking renewal of a gaming license shall provide information updating originally submitted information on the appropriate renewal forms. Applicants shall not be required to resubmit historical data already available to the tribal gaming commission.

(d) Additional background investigation by the tribal gaming commission shall not be required unless the commission discovers new information concerning the applicant's continuing suitability or eligibility for a tribal gaming license.

(e) In the event the commission denies a renewal application, the commission shall notify the applicant in writing of the denial determination and forward a copy of the denial to the NIGC and, for Class III gaming license renewal denials, to the state gaming agency in accordance with the tribal-state gaming compact. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201 (part), passed Dec. 15, 2008)

**11.5.44. Privacy Act Notice on Application Forms.** (a) The following notice shall be placed on the application form provided to any applicant for a key employee, high security employee, or primary management official position:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by the Indian Gaming Regulatory Act, 25 USC 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. The information will be used by National Indian Gaming Commission members and staff who have a need for the information in the performance of their official duties. The information may

be disclosed to appropriate federal, tribal, state, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal, or regulatory investigations or prosecutions, or when pursuant to a requirement by a tribe or the National Indian Gaming Commission in connection with the hiring or firing of an employee, the issuance or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in the tribe's being unable to hire you for a primary management official, high security employee, or key employee position.

The disclosure of your social security number (SSN) is voluntary. However, failure to supply your SSN may result in errors in processing your application.

(b) The tribal gaming commission shall notify existing key employees, high security employees, and primary management officials in writing that they shall either:

(1) Complete a new application form which contains a Privacy Act notice; or

(2) Sign a statement which contains the Privacy Act notice and consent to the routine use described in that notice. (Res. 95-031 (part), passed Apr. 3, 1995)

**11.5.45. False Statement Notice on Application Forms.** (a) The following notice shall be placed on the application form provided to any applicant for a key employee, high security employee, or primary management official position:

A false statement on any part of your application may be grounds for not hiring you or for firing you after you begin work. Also, you may be punished by fine or imprisonment. 18 USC 1001.

(b) The tribal gaming commission shall notify existing key employees, high security employees, and primary management officials in writing that they shall either:

(1) Complete a new application form which contains a notice regarding false statements; or

(2) Sign a statement which contains the notice regarding false statements. (Res. 95-031 (part), passed Apr. 3, 1995)

**11.5.46. License; Qualifications and Requirements.** (a) Prior to commencement of operation and annually thereafter, principals of any management company under contract with the gaming operation shall be licensed by the tribal gaming commission in accordance with the provision of the tribal-state compact and IGRA.

(b) All primary management officials, high security employees, and low security employees to be employed by the gaming operation shall be licensed by the tribal gaming commission in accordance with the provisions of the tribal-state compact and IGRA.

(c) All prospective employees of the gaming facility, including primary management officials, high security employees, and low security employees, shall provide to the tribal gaming commission any required application fee and, at minimum, the following information:

- (1) Full name, other names used (oral or written), maiden name, and mother's maiden name;
- (2) Social security number(s);
- (3) Date and place of birth;
- (4) Citizenship;
- (5) Gender;
- (6) All languages spoken or written;
- (7) Current and for the previous five (5) years: business and employment positions held and the address of each business or employer;
- (8) Current and for the previous five (5) years: ownership interests in any business and the address of each business;
- (9) Current driver's license number and any other driver's license held in the past five (5) years;
- (10) Description of any existing or previous business relationships, including prior employment, with any Indian tribe and, if applicable, any ownership interest in such business(es);
- (11) The names and current addresses of at least three (3) personal references, including one (1) personal reference who was acquainted with the applicant during each period of residence listed under paragraph (7) of this section;
- (12) Current business and residence telephone numbers;
- (13) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;

(14) The name and address of any licensing or regulatory agency with whom the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;

(15) The name and address of any licensing or regulatory agency with whom the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;

(16) For each felony conviction or continuing prosecution, the charge, the name and address of the court involved, and the date and disposition, if any;

(17) For each misdemeanor conviction or continuing prosecution, excluding minor traffic violations, within ten (10) years of the date of the application, the name and address of the court involved and the date and disposition, if any;

(18) For each criminal charge within ten (10) years of the date of the application and not otherwise listed pursuant to paragraph (16) or (17) of this section whether or not there is a conviction but excluding civil traffic infractions, the criminal charge, the name and address of the court involved, and the date and disposition, if any;

(19) Two (2) current photographs;

(20) Any other information the tribal gaming commission deems relevant;  
and

(21) Fingerprints consistent with procedures adopted by the tribal gaming commission in accordance with 25 CFR 522.2(h). The Suquamish Gaming Commission shall engage the Suquamish Tribal Police or other qualified law enforcement agency to complete the fingerprinting license applicants. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201 (part), passed Dec. 15, 2008)

**11.5.47. Completion of State Certification Application.** (a) Each applicant for a Class III gaming related license shall also submit to the tribal gaming commission a completed state certification application together with all fees required by the state gaming agency and the tribal gaming commission. For business entity applicants, the principals of such entities shall submit the required application, attachments, and fees.

(b) The tribal gaming commission shall transmit a copy of all Class III gaming license application materials for each applicant, together with a set of fingerprint cards, a current photograph, and the fee required to the state gaming agency. (Res. 95-031 (part), passed Apr. 3, 1995)

**11.5.48. Request for Temporary State Certification of Gaming Employees.** (a) The tribal gaming commission may, within thirty (30) days of receiving a completed application, request that the state gaming agency issue a temporary state certification to the applicant, unless the state gaming agency's background investigation during that period discloses that the applicant has a criminal history or the state gaming agency discovers compelling evidence of dishonesty, criminal conduct, or an association(s) sufficient to disqualify the applicant under the state's certification requirements.

(b) Any temporary certification granted shall become void and be of no effect upon either the issuance of a state certification or the issuance of an intent to deny, in accordance with the tribal-state gaming compact. (Res. 95-031 (part), passed Apr. 3, 1995)

**11.5.49. Background Investigation Procedures.** (a) The tribal gaming commission shall conduct an investigation of each license applicant sufficient to make a determination as set forth below in this section. In conducting a background investigation, the tribal gaming commission and its investigative personnel shall promise to keep confidential the identity of each person interviewed.

(b) The tribal gaming commission shall be responsible for the conduct of background investigations and for making suitability determinations for employees of the Class II gaming operation.

(c) The tribal police agency, a qualified contractor of the tribal gaming commission, or the tribal gaming commission shall obtain fingerprints from all applicants and employees of the Class II gaming operation. The tribal gaming commission may utilize the NIGC or the state gambling commission enforcement agency, as may be required by IGRA or the tribal-state gaming compact, to process the fingerprints.

(d) The tribal gaming commission is authorized to conduct background investigations of Class III gaming license applicants. The tribal gaming commission may alternatively rely solely on the background investigation report provided by the state in accordance with the tribal-state gaming compact in determining whether to issue a Class III gaming license.

(e) The minimum investigative procedures to be performed in connection with a background investigation of key employees, primary management officials, high security employees, and low security employees shall include the following:

(1) Verification by written or oral communication of information submitted by the applicant;

(2) Inquiry into the applicant's prior activities, reputation, habits, associations, and criminal record, if any;

(3) Interviews with a sufficient number of knowledgeable people such as former employers, personal references, and others to whom reference is made in order to provide a basis for the commission to make a finding concerning an applicant's eligibility for a license in the gaming operation; and

(4) Documentation of the disposition of all potential problem areas shall be noted and disqualifying information will be obtained.

(f) The tribal gaming commission shall review and approve the investigative work done. If the tribal gaming commission determines that the licensing of the applicant poses a threat to the public interest or to the effective regulation of gaming or creates or enhances the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming, the tribal gaming commission shall not license that applicant in a key employee, high security employee, or primary management official position.

(g) The tribal gaming commission shall deny a gaming license to any prospective key employee, high security employee, or primary management official who has committed any of the following crimes under the law of any jurisdiction or who is the subject of a civil judgment in any jurisdiction that is based upon facts which constitute the elements of any of the following crimes:

- (1) Aggravated murder; murder in the first degree;
- (2) Assault in the first or second degree;
- (3) Kidnapping in the first degree;
- (4) Rape in the first degree;
- (5) Sodomy in the first or second degree;
- (6) Unlawful sexual penetration in the first degree;
- (7) Sexual abuse in the first or second degree;
- (8) Any crime related to child pornography;
- (9) Forgery in the first degree;
- (10) Possession of a forgery device;
- (11) Unlawful factoring of a credit card transaction;
- (12) Falsifying business records;
- (13) Sports bribery or receiving a sports bribe;



- (14) Making a false financial statement;
- (15) Obtaining execution of a document by deception;
- (16) Theft by extortion;
- (17) Arson in the first degree;
- (18) Computer crime;
- (19) Robbery in the first or second degree;
- (20) Bribery;
- (21) Bribing a witness;
- (22) Perjury;
- (23) Any theft accomplished by manipulation of records, e.g., embezzlement;
- (24) Promotion of unlawful gambling;
- (25) Conviction of any crime if the original charge was promotion of unlawful gambling and a lesser charge was plea-bargained; or
- (26) Tax evasion.

(h) The tribal gaming commission shall deny a gaming license to any prospective key employee, primary management official, or high security employee who:

- (1) Has associated in a business relationship, whether as a partner, joint venturer, or employer, with any other person who has been convicted of one of the crimes listed in subparagraph (g) of this section;
- (2) Had been employed by any other person who has been convicted of one of the crimes listed in subparagraph (g) of this section, if the prospective employee or official was in any way involved in or aware of the criminal activity as it occurred;
- (3) Fails to disclose any material fact to the tribal gaming commission or its authorized agents during a background or security investigation;
- (4) Misstates or falsifies a material fact to the tribal gaming commission during a background or security investigation; or

(5) Is ineligible for any other reason the tribal gaming commission deems sufficient, provided such reason is consistent with the tribal–state compact and this chapter.

(i) In determining whether to deny a gaming license to any prospective key employee, primary management official, or high security employee, the tribal gaming commission shall consider but need not be limited to the following factors:

(1) Whether the applicant has been convicted of any crime other than a crime listed in subparagraph (g) in any jurisdiction;

(2) Whether the applicant has associated with persons or businesses of known criminal background or persons of disreputable character that may adversely affect the general credibility, honesty, integrity, security, fairness, or reputation of the gaming operation; or

(3) Whether there is any aspect of the applicant's past conduct that the tribal gaming commission determines would adversely affect the honesty, integrity, security, or fairness of the gaming operation. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201 (part), passed Dec. 15, 2008)

**11.5.50. Denial of License Application.** (a) The tribal gaming commission shall deny a gaming license to any prospective low security employee who has committed any of the crimes listed in §11.5.49(g)(1–5).

(b) The tribal gaming commission may deny a gaming license to any prospective low security employee who has committed any of the crimes listed in §11.5.49(g)(6–26).

(c) The tribal gaming commission may reject any applicant who:

(1) Fails to provide all the information requested in the application;

(2) Violates, fails, or refuses to comply with any provision, requirement, condition, limitation, or duty imposed by this chapter, IGRA, or the tribal–state gaming compact;

(3) Fails to provide information reasonably required to investigate the application for a tribal license or to reveal any fact which the applicant knows or should reasonably know is material to such application, or who has furnished any information which is untrue or misleading in connection with such application;

(4) Has had a tribal or state gaming license revoked or denied during the twelve months prior to the date on which the tribe received the application; or



(5) Is currently on probation imposed by, has demonstrated a willful disregard for, or has failed to comply with the requirements of any gaming regulatory authority in any jurisdiction, including offenses which could subject the individual or entity to suspension, revocation, or forfeiture of a gaming license. (Res. 95-031 (part), passed Apr. 3, 1995)

**11.5.51. Waiver of Disqualifying Criteria.** (a) If a prospective key employee, primary management official, high security employee, or low security employee is disqualified for licensing under the provisions of §11.5.49 and the tribal gaming commission believes there are mitigating circumstances justifying a waiver of the disqualifying factor, the commission may give written notice to the state requesting a meeting to confer on the waiver of an applicant's disqualification in accordance with the terms of the tribal-state compact.

(b) In order to waive a disqualification of licensing of any prospective key employee, primary management official, high security employee, or low security employee, both the tribal gaming commission and the state must agree on the waiver.

(c) Waiver of disqualification of licensing may be based on one or more of the following circumstances:

(1) Applicant's age at the time of any conviction;

(2) Passage of time since conviction for the crime committed;

(3) Severity of the offense committed;

(4) Applicant's overall criminal record;

(5) Applicant's current reputation and standing in the community; or

(6) The nature of the position for which the application is made. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201 (part), passed Dec. 15, 2008)

**11.5.52. Gaming Applications by Tribal Members, Indians.** (a) The tribal gaming commission may, by mutual agreement with the state gaming agency, waive certain criteria for any enrolled tribal member and issue a provisional or conditional gaming license if the tribal member applicant does not pose a material risk of engaging in unlawful activity or activity detrimental to the operation of the gaming facility. The provisional or conditional gaming license issued may be a temporary license based upon specific conditions and a further detailed review of the tribal member applicant. The tribal gaming commission may require the tribal member applicant to pay additional fees to maintain a temporary, conditional, or provisional gaming license.

(b) An application submitted for a tribal gaming license by an Indian from a federally recognized Indian tribe shall not be denied, suspended, or revoked on the grounds that such Indian has been charged or convicted under any state law of nongambling related offenses if the charge or conviction occurred prior to the United States Supreme Court rulings upholding state jurisdiction over Indians for such offenses as but not limited to:

(1) Hunting or fishing offenses;

(2) Cigarette sales offenses; or

(3) Alcohol sales offenses.

(c) An Indian from a federally recognized Indian tribe who has been charged or convicted in cases involving the exercise of nongambling related trust or treaty rights shall not be barred as a result of such activities from obtaining a tribal gaming license in the absence of other violations, activities, or factors which would warrant denial, suspension, or revocation. (Res. 95-031 (part), passed Apr. 3, 1995)

**11.5.53. Denial Final.** Denial of a license by the tribal gaming commission is final. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201 (part), passed Dec. 15, 2008)

**11.5.54. Procedures for Forwarding Applications and Reports of Class II Gaming License Investigations to the National Indian Gaming Commission.** (a) Within sixty (60) days after a primary management official, high security employee, or low security employee begins working at a tribal Class II gaming facility, the tribal gaming commission shall forward to the NIGC a completed application for licensing, conduct a background investigation, and make the determination referred to in §11.5.49.

(b) No key employee, primary management official, high security employee, or low security employee may be employed at the tribal Class II gaming facility for longer than ninety (90) days without the necessary and applicable license.

(c) The tribal gaming commission shall prepare and forward to the NIGC an investigative report on each Class II gaming license application background investigation it conducts. The investigative report shall include all of the following:

(1) Steps taken in conducting a background investigation;

(2) Results obtained;

(3) Conclusions reached; and

(4) The bases for such conclusions.

(d) Along with the report, the tribal gaming commission shall submit a copy of the eligibility determination made under §11.5.49(g) of this chapter.

(e) If a license is not issued to an applicant, the tribal gaming commission:

(1) Shall notify the NIGC; and

(2) May forward copies of its eligibility determination and investigative report, if any, to the NIGC for inclusion in the Indian Gaming Individuals Records System.

(f) With respect to key employees, high security employees, and primary management officials, the tribal gaming commission shall retain applications for licensing and reports, if any, of background investigations for inspection by the chairman of the NIGC or his or her designee for not less than three (3) years from the date of termination of employment. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201 (part), passed Dec. 15, 2008)

**11.5.55. Granting a Class II Gaming License.** (a) If within thirty (30) days after the NIGC receives a report the NIGC notifies the tribal gaming commission that it has no objection to the issuance of a license pursuant to a license application filed by an applicant for a key employee, high security employee, or primary management official position for whom the tribal gaming commission has provided an application and investigative report to the NIGC, the tribal gaming commission may issue a license to such applicant.

(b) The tribal gaming commission shall respond to a request for additional information from the chairman of the NIGC concerning any key employee, high security employee, or a primary management official who is the subject of a report. Such a request shall suspend the thirty-day period under §11.5.55(a) until the chairman of the NIGC receives the additional information.

(c) If within the thirty-day period described above the NIGC provides the tribal gaming commission with a statement itemizing objections to the issuance of a license to a key employee, high security employee, or primary management official for whom the tribal gaming commission has provided an application and investigative report, the tribal gaming commission shall reconsider the application, taking into account the objections itemized by the NIGC. The tribal gaming commission shall make the final decision on whether to issue a license to the applicant. (Res. 95-031 (part), passed Apr. 3, 1995)

**11.5.56. License Suspension and Revocation.** (a) The tribal gaming commission shall immediately suspend and after notice and hearing revoke the license issued pursuant to this chapter of any person or entity who is or becomes ineligible to hold a license under this chapter and regulations promulgated hereunder or who violates any provision of this chapter, of §7.20.2, of 25 USC 2701 et seq., of 18 USC 1163, or of any rule or regulation promulgated and adopted thereunder.

(b) If, after issuing a license, the tribal gaming commission receives from the NIGC reliable information indicating that the applicant or employee does not meet the standards established and set forth in this chapter or is ineligible to hold a license under this chapter, the commission shall immediately suspend such license and after notice and hearing may revoke such license.

(c) Upon suspending a license and within five (5) working days, the tribal gaming commission shall set a date, time, and place for a revocation hearing and give written notice to any licensee whose license has been suspended and include in the notice the following information:

(1) The effective date of the suspension;

(2) The reason(s) for the suspension and potential revocation; and

(3) The date, time, and place of the revocation hearing which shall occur no later than thirty (30) calendar days from the date of the suspension.

(d) At least five (5) days prior to a revocation hearing involving a Class III license, the tribal gaming commission shall forward to the state gaming agency a copy of any notice of hearing to be held.

(e) After conducting the revocation hearing, the tribal gaming commission may decide to revoke or to reinstate the gaming license or to reinstate with conditions on the license and licensee consistent with the provisions of this chapter and the regulations promulgated hereunder, provided such conditions shall be reviewed by the commission on the next renewal date of the license. The commission may not reinstate any Class II or Class III gaming license with conditions if the proven acts of the licensee would be grounds for denial of a license under this chapter, the IGRA, or the tribal-state compact unless the commission has concurrence from the state gaming agency or NIGC in the conditions. The commission shall be the sole judge of the proof offered at a hearing.

(f) No later than thirty (30) days after the hearing, the tribal gaming commission shall notify the licensee in writing as to its decision and send a copy of the decision to the NIGC and in the case of a Class III gaming license to the state gaming agency. The revocation notice shall include the following information:

(1) The effective date of the revocation.

(2) The reason(s) for the revocation.

(3) The right of the licensee to appeal the revocation decision to the tribal court under the conditions set out in subsection (4) below within ten (10) days of the licensee's receipt of the revocation decision.

(4) The decision of the gaming commission shall be final and conclusive and not subject to appeal to the tribal court, except that an appeal to tribal court may be maintained exclusively on the grounds that the licensee's rights to due process of law were denied by the gaming commission.

(g) Notwithstanding anything to the contrary herein, the licensee may request in writing the reasonable extension of any timeframe set forth above. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201 (part), passed Dec. 15, 2008)

**11.5.57. Appeal of Revocation Decision.** (a) A licensee may appeal the revocation of his or her license to the tribal court only on the ground set out in §11.5.56(f)(4) by sending a written notice of appeal of the revocation to the tribal court and the tribal gaming commission no later than ten (10) days after the licensee receives notice that the license has been revoked. The notice of appeal shall state all reasons the licensee believes the licensee was denied due process of law by the tribal gaming commission.

(b) Upon receipt of the notice of appeal of the license revocation, the tribal court shall schedule a hearing to be conducted within twenty (20) days of receipt of the licensee's notice of appeal. Written notice of the time, date, and place of the hearing shall be delivered to the licensee no later than five (5) days before the scheduled date of the hearing.

(c) The licensee and the tribal gaming commission may be represented by legal counsel at the appeal hearing. The hearing shall be limited to the question whether the licensee was denied due process of law by the tribal gaming commission. The licensee and the tribal gaming commission may present witnesses and evidence in support of their respective positions, cross-examine witnesses, and examine evidence submitted by the opposing party.

(d) The tribal court shall issue its decision on the appeal no later than ten (10) working days following the appeal hearing. The decision may uphold the decision below or remand the decision to the gaming commission with instructions to meet due process requirements as set out in this chapter. The decision of the tribal court shall be final and conclusive, and no appeal to a higher court shall be allowed.

(e) The tribal gaming commission shall comply with the order of the tribal court and shall forward a copy of any revised decision of the gaming commission concerning the license revocation to the NIGC and the state gambling commission. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201 (part), passed Dec. 15, 2008)

**11.5.58. Application for Relicensing.** No person, entity, or contractor whose gaming license has been revoked shall be eligible to apply for a new license until twelve (12) months after the effective date of his or her license revocation. (Res. 95-031 (part), passed Apr. 3, 1995)



**11.5.59. Facility License.** Not less than once every three (3) years, the tribal gaming commission shall issue a separate license to each place, facility, or location on Suquamish Indian lands where Class II or Class III gaming is conducted under this chapter. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201 (part), passed Dec. 15, 2008)

**11.5.60. Facility Inspection.** (a) The tribal gaming commission shall inspect each gaming operation prior to commencement of operation and at least annually thereafter to verify its conformance to the licensing and other requirements of this chapter and, as to Class III gaming activities, the tribal-state gaming compact. If the gaming operation fails to meet any licensing requirement or other requirement of this chapter or, as to Class III gaming activities, the tribal-state gaming compact, the tribal gaming commission shall send a noncompliance letter to the gaming operator within seven (7) working days after completion of the inspection.

(b) In a joint preoperation review with the state gaming agency, the tribal gaming commission shall make an initial verification that all licenses have been issued and that requirements for such licensing have been met. The joint preoperation review shall be conducted no later than ten (10) days prior to the scheduled opening of the gaming facility to the public. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201 (part), passed Dec. 15, 2008)

**11.5.61. Financier License.** (a) Any party who extends or intends to extend financing directly to the gaming facility or gaming operation shall be subject to the annual licensing requirements of this chapter, IGRA, and/or the tribal-state gaming compact. Such party shall obtain a tribal license prior to completing the financing agreement and annually thereafter as long as the financing agreement is in effect. This section shall not apply to financing provided by a federally regulated commercial lending institution, the Suquamish Tribal government or its agencies, or the federal government.

(b) An applicant for a financier license shall fully disclose to the tribal gaming commission both the source of all funds to be used in any financing agreement and other information as may be required to be disclosed under and in accordance with IGRA and/or the tribal-state gaming compact. As to Class III gaming financier license applications, the tribal gaming commission shall provide a copy of disclosures made under this subsection to the state gaming agency in accordance with the tribal-state gaming compact. (Res. 95-031 (part), passed Apr. 3, 1995)

**11.5.62. Key Personnel List.** Prior to commencement of operations and annually thereafter, the gaming operator shall provide the tribal gaming commission with information identifying all key employees in its gaming operation. The tribal gaming commission shall provide a copy of the submitted information to the state gaming agency only to the extent required under the tribal-state gaming compact. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201 (part), passed Dec. 15, 2008)



**11.5.63. Background Investigation during Employment.** The tribal gaming commission may request the state to conduct additional background investigations of any gaming employee at any time during the term of employment. The commission shall request the state to advise the commission of any facts which would cause the revocation of a license and dismissal of any employee under the criteria established in §11.5.49 and to furnish the commission with copies of all relevant information supporting such facts. The tribal gaming commission shall review the state's report and supporting materials and revoke the employee's license if the report presents facts establishing that the tribal gaming commission would have been required to deny a license to that employee under the provisions of §11.5.49 if the information had been known. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201 (part), passed Dec. 15, 2008)

**11.5.64. Procedural Manual.** The tribal gaming operator shall maintain a procedural manual for employees that includes rules and regulations of conduct; provides disciplinary standards for breach of procedures; and prohibits violation of the tribal-state compact and applicable federal or tribal law. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201 (part), passed Dec. 15, 2008)

**11.5.65. Contracts with Manufacturers and Suppliers.** (a) The primary management officials shall contract in writing with any manufacturers and suppliers of goods and services related to the play of any Class II or Class III game before offering such game to the public for play.

(b) The tribal gaming commission may require that Class II and Class III gaming contractors be subject to a background investigation by the tribal gaming commission before any contracts for goods and services are executed. The tribal gaming commission shall submit any proposed Class III gaming contract to the state for a background investigation of the contract licensee applicant in accordance with the terms of the tribal-state compact.

(c) All Class II and Class III gaming contract applicants and any principal, owner, or key employee of a gaming contract applicant shall provide all personal and business information required by the tribal gaming commission and/or the state to conduct the background investigation.

(d) Primary management officials shall not enter into any Class II gaming contract if the license applicant does not provide the tribal gaming commission or the NIGC with access to the its business and financial records.

(e) Primary management officials shall not enter into any Class III gaming contract if the license applicant does not provide the tribal gaming commission, the state, or the NIGC access to the contractor's business and financial records.

(f) If a Class III gaming contract license applicant is currently licensed or certified by the state gaming agency to supply goods or services to any other tribe in the state,

the tribal gaming commission may immediately issue a contract license to supply the same services or goods to the tribal gaming operation.

(g) In the event a Class III gaming contractor provides or intends to provide less than twenty-five thousand dollars (\$25,000) worth of gaming services annually, the tribal gaming commission, upon mutual agreement with the state gaming agency, may waive the certification and licensing requirement. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201 (part), passed Dec. 15, 2008)

**11.5.66. Criteria for Denial of Class II or Class III Gaming Contract License Application.**

The tribal gaming commission shall deny a Class II or Class III gaming contract license application under any of the following conditions:

(a) The applicant fails to disclose, misstates, or falsifies any material fact to the tribal gaming commission, the state, or their authorized agents during a background or security investigation.

(b) A person who is unqualified or disqualified to be a Class II or Class III gaming contractor owns, is an agent of, or has any other interest in the applicant, regardless of the qualifications of the person who seeks approval as a contractor.

(c) The applicant demonstrates inadequate financing for the business proposed under the type of contract for which application is made. In determining whether financing is adequate, the tribal gaming commission shall consider whether financing is from a source that meets the qualifications of §11.5.49 and whether the financing is in an amount to ensure the likelihood of success in the performance of the contractor's duties and responsibilities.

(d) The applicant or its employees fails to demonstrate business ability and experience to establish, operate, and maintain the business for the type of contract for which application is made.

(e) Any other reason the tribal gaming commission deems sufficient. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201 (part), passed Dec. 15, 2008)

**11.5.67. No Interest in Electronic Gaming Devices.** No person applying for a Class II or Class III gaming contract license shall own, manufacture, possess, operate, own an interest in, or gain income or reimbursement in any manner from video gaming devices in any jurisdiction unless:

(a) The devices are approved and certified by another state lottery, gambling, or gaming control agency, Indian tribe, NIGC, or foreign country which has jurisdiction to approve that activity; and

(b) Such ownership, manufacture, possession, operation, or income is disclosed to the tribal gaming commission. (Res. 95-031 (part), passed Apr. 3, 1995)

**11.5.68. Rejection of License Application.** The tribal gaming commission may reject an application for either a Class II or Class III gaming contract license if the applicant has not provided all the information requested in the application. (Res. 95-031 (part), passed Apr. 3, 1995)

**11.5.69. Criteria for Denial of Major or Sensitive Procurement Contract Application.** The tribal gaming commission shall deny a Class II or Class III gaming contract application for a major or sensitive procurement if the applicant or any owner, principal, or key employee of the applicant:

(a) Has been convicted of a crime or is the subject of a civil judgment based upon facts which constitute the elements of a crime described in §11.5.49(g)(1–26).

(b) Has associated in a business relationship, whether as a partner, joint venturer, or employer, with any other person who has been convicted of one of the crimes listed in §11.5.49(g)(1–26).

(c) Was employed by any other person who has been convicted of one of the crimes listed in §11.5.49(g)(1–26), if the applicant, owner, principal, or key employee was in any way involved in or aware of the criminal activity as it occurred. (Res. 95-031 (part), passed Apr. 3, 1995)

**11.5.70. Criteria for Denial of Minor Procurement Application.** The tribal gaming commission shall deny a Class II or Class III gaming contract application for a minor procurement if the applicant or any owner, principal, or key employee of the applicant:

(a) Has been convicted of a crime listed in §11.5.49(g)(1–26); or

(b) Is the subject of a civil judgment based upon facts which constitute the elements of a crime listed in §11.5.49(g)(1–5). (Res. 95-031 (part), passed Apr. 3, 1995)

**11.5.71. Contractor Report Requirements.** (a) All licensed Class II gaming contractors shall submit to the tribal gaming commission or the NIGC any financial and operating data requested by the commission.

(b) All licensed Class III gaming contractors shall submit to the tribal gaming commission and the state any financial and operating data requested by the tribal gaming commission, the state, or their authorized agents.

(c) The tribal gaming commission may specify the frequency and a uniform format for the submission of such data.

(d) The tribal gaming commission reserves the right to examine Class II gaming contractor tax records and the detailed records from which the tax reports are compiled.

(e) The tribal gaming commission, the state, or their authorized agents reserve the right to examine Class III gaming contractor tax records and the detailed records from which the tax reports are compiled. (Res. 95-031 (part), passed Apr. 3, 1995)

**11.5.72. Duration of Contractor License and Renewal.** (a) Any gaming contractor license shall be effective for not more than three (3) years from the date of issue. Applicants for renewal shall provide a renewal fee and updated information to the tribal gaming commission but will not be required to resubmit historical data already provided.

(b) Class II gaming contractors shall comply with all IGRA requirements for license renewals.

(c) Class II gaming contractors shall comply with all tribal–state gaming compact requirements for license renewals. (Res. 95-031 (part), passed Apr. 3, 1995)

**11.5.73. Revocation of Contractor License.** The tribal gaming commission may revoke the license of any contractor pursuant to regulations promulgated by the tribal gaming commission. The tribal gaming commission shall revoke the license of any contractor upon determination that an event has occurred that would have prohibited the tribal gaming commission from licensing the contractor under the criteria established in this chapter. (Res. 95-031 (part), passed Apr. 3, 1995)

**11.5.74. Fee for Approval of Employment License and Contracts.** (a) The tribal gaming commission shall set fees for the conduct of its background investigations and for its review of employee and contractor license applications.

(b) The tribal gaming commission shall additionally collect fees from license applicants equivalent to the amount charged by the state for approval of employee and contractor licenses, in accordance with the terms of the tribal–state compact.

(c) Should the state incur costs exceeding the fees set forth in the state's fee schedule, pursuant to §V.I of the tribal–state compact, and assess those additional costs to the tribal gaming commission during or after the investigation, the tribal gaming commission shall collect such costs from the license applicant.

(d) The applicant shall be required to pay all license fees in full prior to the issuance of the contract or license. License fees are nonrefundable. (Res. 95-031 (part), passed Apr. 3, 1995)

**11.5.75. Management Contract.** (a) At all times, the primary management official shall provide the tribal gaming commission and the state gaming agency with a current copy of any management agreement with the tribal gaming operator which allows it to conduct Class III gaming on Suquamish Indian lands.

(b) The primary management official shall furnish to the tribal council, the tribal gaming commission, and the state complete information pertaining to any transfer of controlling interest in the management company at least thirty (30) days before such change or if the primary management official is not a party to the transaction effecting such change of ownership or interests, immediately upon acquiring knowledge of such change or any contemplated change. (Res. 95-031 (part), passed Apr. 3, 1995)

**11.5.76. Complaint Procedure.** (a) The tribal gaming commission may receive a complaint from a customer who claims to be adversely affected by an act or omission of the enterprise which is asserted to violate this chapter, the tribal-state compact, or the standards of management and operation adopted pursuant to this chapter. Prior to lodging a complaint with the commission, the customer must exhaust the internal complaint remedy procedures of the gaming operation.

(b) The gaming operation shall post a notice in the gaming facility advising customers of its dispute resolution procedure and shall have complaint forms easily accessible to its customers.

(c) A customer with a complaint shall complete a written complaint form stating the facts or circumstances of the complaint with the tribal gaming operator and submit it to the tribal gaming operator within four (4) days of the incident giving rise to the complaint. The tribal gaming operator shall immediately provide a copy of the complaint form to the tribal gaming commission and shall have seven (7) days to prepare and deliver its written response to the customer and tribal gaming commission. The tribal gaming operator shall provide a copy of the customer's statement and its response to the tribal gaming commission.

(d) In the event the customer is dissatisfied with the tribal gaming operator's response, the customer may request a review of the complaint by the tribal gaming commission. The customer must make this request to the commission within seven (7) days of receiving the tribal gaming operator's response.

(e) The commission, through a commission inspector, shall review the complaint and the tribal gaming operator's response. The inspector shall conduct whatever investigation he/she deems necessary, report his/her findings, and make a recommendation to the commission. The commission may set a hearing on the matter or may make a decision based solely on the commission inspector's recommendation and the documentation provided by the parties. The commission, upon consideration of the matter, shall issue a written decision and mail it to the parties by registered mail or certified mail, return receipt requested. The commission shall fully consider and complete its final review of the dispute within twenty (20) days of receiving the customer's request.

(f) Should the commission decide to hold a hearing, it shall provide written notification of the date, time, and place for the hearing to the customer and the tribal



gaming operator at least five (5) days prior to the hearing. At the hearing, the customer shall have the opportunity to submit written evidence and present oral testimony in support of his or her complaint. The tribal gaming operator shall have the opportunity to respond to the customer's complaint with evidence or testimony.

(g) The liability of the tribal gaming operator in any dispute under this section shall be limited to the amount of the alleged winnings. No complainant shall be entitled to any other award, including but not limited to special or punitive damages or damages for mental distress.

(h) The decision of the commission shall be final and not subject to judicial review. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201 (part), passed Dec. 15, 2008)

**11.5.77. Recording and Reporting of Incidents.** (a) The tribal gaming operation shall record, in a permanent and detailed manner, any and all occurrences at any gaming facility which require further investigation under the terms of the tribal-state gaming compact.

(b) Each incident recorded shall be assigned a sequential number, and at a minimum the following information shall be maintained regarding the incident:

(1) The assigned number;

(2) The date;

(3) The time;

(4) The nature of the incident;

(5) The name, address, and telephone number of all persons involved in the incident; and

(6) The name and identification number of the tribal gaming inspector or commission employee assigned responsibility for recording the occurrence. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201 (part), passed Dec. 15, 2008)

**11.5.78. Civil Offenses.** The following offenses are civil offenses, punishable by a fine of up to five thousand dollars (\$5,000). In addition, any person licensed by the commission who is found to have violated any provision of this section will be subject to immediate suspension of his/her gaming license, pending a hearing before the commission pursuant to §11.5.56.

(a) It shall be a civil offense for any person to operate, perform, supervise, hold, conduct, or participate in gaming on Suquamish Indian lands in violation of the



provisions of this chapter or in violation of rules or regulations promulgated pursuant to this chapter.

(b) It shall be a civil offense for any person to conduct any gaming activity without the license or licenses required by this chapter, by IGRA, or in the case of Class III gaming activities, by the tribal–state gaming compact.

(c) It shall be a civil offense for any person to knowingly make a false statement in an application for employment or a license application required in this chapter, by IGRA, or in the case of Class III gaming activities, by the tribal–state gaming compact.

(d) It shall be a civil offense for any person to make any false or misleading entry, willfully fail to maintain or make any entry required to be maintained or made, or willfully refuse to produce for inspection by the Suquamish Gaming Commission or in the case of Class III gaming activities, by any person authorized to inspect pursuant to tribal law, IGRA, or the tribal–state gaming compact any book, record, or document required to be maintained or made by tribal law, federal law, or the tribal–state gaming compact.

(e) It shall be a civil offense for any person to bribe, attempt to bribe, unduly influence, or attempt to unduly influence any person who licenses, operates, conducts, assists, or is otherwise employed in a gaming activity or enterprise located on Suquamish Indian lands.

(f) It shall be a civil offense for any person directly or indirectly operating any gaming activity on Suquamish Indian lands to employ any device, scheme, or artifice to defraud; to make any untrue statement of a material fact or to mislead by omitting a material fact; or to engage in any act, practice, or course of operation which would operate as a fraud or deceit upon any person.

(g) It shall be a civil offense for any person participating directly or indirectly in any gaming activity on Suquamish Indian lands to employ or attempt to employ any device, scheme, or artifice or to engage in any act, practice, or operation which would operate as a fraud or deceit upon any other participant or any operator.

(h) It shall be a civil offense for any person to alter or misrepresent the outcome or other event on which wagers have been made after the outcome is made sure but before it is revealed to the players.

(i) It shall be a civil offense for any person to place, increase, or decrease a bet or to determine the course of play after acquiring knowledge not available to all players of the outcome of the game or any event which affects the outcome of the game or which is the subject of the bet; or to aid anyone in acquiring such knowledge for the purpose of placing, increasing, or decreasing a bet or determining the course of play contingent upon that event or outcome.

(j) It shall be a civil offense for any person to claim, collect, or take or attempt to claim, collect, or take money or anything of value in or from a gambling game with intent to defraud without having made a wager thereon or to claim, collect, or take an amount greater than the amount won.

(k) It shall be a civil offense for any person to knowingly entice or induce another to go to any place where a gambling game is being conducted or operated in violation of the provisions of this chapter or the tribal–state gaming compact with the intent that the other person play or participate in that gambling game.

(l) It shall be a civil offense for any person to place or increase a bet after acquiring knowledge of the outcome of the game or other event which is the subject of the bet, including past-posting and pressing bets.

(m) It shall be a civil offense for any person to reduce the amount wagered or cancel the bet after acquiring knowledge of the outcome of the game or other event which is the subject of the bet, including pinching bets.

(n) It shall be a civil offense for any person knowingly to use other than coins or tokens approved by the tribal gaming commission or other lawful coin or legal tender of the United States of America or to use coin not of the same denomination as the coin intended to be used in the gambling game.

(o) It shall be a civil offense for any person to engage in any act, practice, or operation or possess any device while participating in a gaming activity with the intent of cheating any other participant or any operator in order to gain an advantage in the game over any other participant or any operator. For the purposes of this chapter, the word “cheat” means to alter the selection of criteria which determines the result of a gaming activity or the amount or frequency of payment in such gaming activities.

(p) It shall be a civil offense for any person to induce any person having a direct or indirect financial interest in a management contract, a person having management responsibility for a management contract, or their agents to significantly and unduly influence the adoption of an ordinance or resolution regarding Class II or Class III gaming.

(q) Except as authorized by this chapter, the rules and regulations adopted pursuant to this chapter, IGRA, and in the case of Class III gaming activities, the tribal–state gaming compact, it shall be a civil offense for any person to give, provide, or offer to give or provide directly or indirectly any compensation, reward, or share of money or property paid or received through gambling activities in consideration for obtaining any license, authorization, permission, or privilege to participate in any gaming operations to any of the following persons: tribal council member, tribal gaming commission member or employee, primary management official, key employee, high security employee, low security employee, contractor, person with a direct or indirect interest in the operation of

Class II or Class III gaming, or person who licenses, regulates, or enforces laws related to gaming activities on Suquamish Indian lands.

(r) It shall be a civil offense for any person to knowingly cause, aid, abet, or conspire with another to cause any person to violate any provision of this chapter, any rules or regulations adopted by the tribal gaming commission, or in the case of Class III gaming, any provision of the tribal-state gaming compact.

(s) It shall be a civil offense for any person, in violation of this chapter, to engage in, be employed in, manage, or operate any professional gambling activity in concert with any number of persons or for any wager amounts.

(t) For the purposes of this chapter, the word "professional gambling" means engaging in conduct which materially aids any other form of gaming activity; knowingly accepting or receiving money or other property pursuant to an agreement or understanding with any other person whereby he or she participates in or is to participate in the proceeds of the gaming activity; engaging in bookmaking, conducting a lottery, or acting in any manner to create or establish a particular game, contest, scheme, or device; engaging in any activity to acquire or maintain premises, paraphernalia, equipment, or apparatus for the purpose of soliciting or inducing persons to participate in the playing of a game, contest, scheme, or device; or arranging any of the financial or recording phases of the operation of such game, contest, scheme, or device. This definition includes any person who has substantial proprietary or other authoritative control over any premises and knowingly permits the premises to be used for the purpose of conducting gambling activities not authorized by this chapter and makes no effort to prevent their occurrence or continuation. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201 (part), passed Dec. 15, 2008)

**11.5.79. Civil Fines and Penalties.** (a) Any person who violates any provision of this chapter or any rule or regulation promulgated hereunder shall be guilty of a civil offense punishable by a fine not to exceed five thousand dollars (\$5,000) for each violation or for each day the violation continues. Before the tribal gaming commission may issue any civil gaming infraction or corresponding fine, it must first establish a schedule of fines for each civil gaming infraction set out in §11.5.78 and §11.5.88 and must have the schedule approved via resolution by the Suquamish Tribal Council.

(b) Any non-Indian who violates a provision of this chapter may also be excluded from Indian lands within the jurisdiction of the Suquamish Indian Tribe.

(c) Any property, equipment, material, or supplies used in the commission of a violation of a provision of this chapter may be seized by the tribal gaming commission or its agents. The owner of the property shall be afforded an opportunity to object and be heard in accordance with the principles of due process. If no objection is raised or the objection is not sustained, the seized property shall be forfeited to the Suquamish Tribe.

(d) A separate violation occurs on each day that a violation arises or continues after written notice to the violator from the commission either in the form of an order to cease and desist or in the form of a civil citation. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201 (part), passed Dec. 15, 2008 which also moved criminal fines and penalties to chapter 7.20)

**11.5.80. Notice of Infraction.** (a) A tribal gaming enforcement officer has the authority to issue a notice of civil gaming infraction:

(1) When it occurs in the enforcement officer's presence; or

(2) When a tribal gaming enforcement officer investigating any incident or event in or connected to the gaming facility has reasonable cause to believe a civil gaming infraction has been committed.

(b) The tribal prosecutor may issue a notice of civil gaming infraction upon receipt of a written statement of a tribal gaming enforcement officer that there is probable cause to believe that an infraction has been committed.

(c) A notice of gaming infraction represents a determination that a civil gaming infraction has been committed. The determination will be final unless contested as provided in this chapter.

(d) The form for the notice of civil gaming infraction shall include the following statements.

(1) A statement that the notice represents a determination that a civil gaming infraction has been committed by the person named in the notice and that the determination shall be final unless contested as provided in this chapter.

(2) A statement that a civil gaming infraction is a noncriminal offense for which imprisonment may not be imposed as a sanction and that the penalty for a civil gaming infraction may include the suspension or revocation of a person's privilege to hold a gaming license within the exterior boundaries of the Port Madison Reservation.

(3) A statement of the specific civil gaming infraction for which the notice was issued.

(4) A statement of the monetary penalty established for the civil gaming infraction.

(5) A statement of the options provided in this chapter for responding to the notice and the procedures necessary to exercise these options.

(6) A statement that at any hearing to contest the determination the tribe has the burden of proving by a preponderance of the evidence that the infraction was committed and that the person may subpoena witnesses, including the officer who issued the notice of infraction.

(7) A statement that at any hearing requested for the purpose of explaining mitigating circumstances surrounding the commission of the infraction the person will be deemed to have committed the infraction and may not subpoena witnesses.

(8) A statement that the person must respond to the notice as provided in this chapter within fifteen (15) days or the person's privilege to gamble or to hold a gaming license within the exterior boundaries of the Port Madison Reservation may be suspended or revoked.

(9) A statement that failure to appear at a hearing requested for the purpose of contesting the determination or for the purpose of explaining mitigating circumstances may result in the suspension or revocation of the person's privilege to hold a gaming license or to gamble within the exterior boundaries of the Port Madison Reservation.

(10) A statement that failure to respond to a notice of civil gaming infraction and/or the nonpayment of a fine may result in the person's case being sent to a collection agency and/or the loss of any gaming license issued by the gaming commission.

(11) A statement, which the person shall sign, that the person promises to respond to the notice of infraction in one of the ways provided in this chapter. If the person refuses to sign the infraction, the officer shall write "refused" in place of the person's signature. A person who refuses to sign a citation is presumed to have notice of its contents.

(e) Any person who receives a notice of civil gaming infraction shall respond to such notice as provided in this subsection within fifteen (15) days of the date of the notice.

(1) If the person determined to have committed the infraction does not contest the determination, the person shall respond by completing the appropriate portion of the notice of infraction and submitting it, either by mail or in person, to the Suquamish Tribal Court. A check or money order in the amount of the penalty prescribed for the infraction must be submitted with the response. When a response which does not contest the determination is received, an appropriate order shall be entered in the court's records, and a copy of the order shall be mailed to the person who committed the infraction at the address listed on the citation.



(2) If the person determined to have committed the infraction wishes to contest the determination, the person shall respond by completing the portion of the notice of infraction requesting a hearing and submitting it, either by mail or in person, to the Suquamish Tribal Court. The court shall notify the person in writing of the time, place, and date of the hearing, and that date shall not be sooner than seven (7) days from the date of the notice, except by agreement.

(3) If the person determined to have committed the infraction does not contest the determination but wishes to explain mitigating circumstances surrounding the infraction, the person shall respond by completing the portion of the notice of infraction requesting a hearing for that purpose and submitting it, either by mail or in person, to the Suquamish Tribal Court. The court shall notify the person in writing of the time, place, and date of the hearing, and that date shall not be sooner than seven (7) days from the date of the notice, except by agreement.

(4) If any person issued a notice of civil gaming infraction, fails

(A) To respond to the notice of civil gaming infraction as provided in §11.5.80, or

(B) To appear at a hearing requested pursuant to §11.5.80(e)(2),

the court shall enter an appropriate order assessing the monetary penalty prescribed for the civil gaming infraction and any other penalty authorized by the Suquamish Tribal Code. (Res. 2008-201 (part), passed Dec. 15, 2008)

**11.5.81. Hearings.** (a) Procedures for the conduct of all hearings provided for in this chapter, to the extent that they are consistent with the procedures set forth herein, may be established by the chief judge of the Suquamish Tribal Court.

(b) Any person subject to proceedings under this chapter may be represented by counsel at their own expense.

(c) The tribe may be represented by counsel.

(d) A hearing held for the purpose of contesting the determination that an infraction has been committed shall be without a jury.

(1) The court may consider the notice of civil gaming infraction and any other written report made under oath submitted by the officer who issued the notice or whose written statement was the basis for the issuance of the notice in lieu of the officer's personal appearance at the hearing. The person named in the notice may subpoena witnesses, including the officer, and has the right to present evidence and examine witnesses present in court.



(2) The burden of proof is upon the tribe to establish the commission of the infraction by a preponderance of the evidence.

(3) After consideration of the evidence and argument, the court shall determine whether the infraction was committed. Where it has not been established that the infraction was committed, an order dismissing the notice shall be entered in the court's records. Where it has been established that the infraction was committed, an appropriate order shall be entered in the court's records.

(4) An appeal from the court's determination or order shall be to the Suquamish Tribal Court of Appeals. The decision of the Suquamish Tribal Court is subject only to discretionary review.

(c) A hearing held for the purpose of allowing a person to explain mitigating circumstances surrounding the commission of an infraction shall be an informal proceeding. The person may not subpoena witnesses. The determination that an infraction has been committed may not be contested at a hearing held for the purpose of explaining mitigating circumstances.

(1) After the court has heard the explanation of the circumstances surrounding the commission of the infraction, an appropriate order shall be entered in the court's records.

(2) There may be no appeal from the court's determination or order. (Res. 2008-201 (part), passed Dec. 15, 2008)

**11.5.82. Order of Court.** All orders entered by the court under this chapter are civil in nature. The court may at its discretion waive, reduce, or suspend the fine. The court may also order suspension or revocation of the violator's privilege to gamble within the jurisdiction of the tribe. (Res. 2008-201 (part), passed Dec. 15, 2008)

**11.5.83. Other Offenses and Penalties.** (a) Every other gaming activity relating to the subject matter of this chapter held, conducted, or engaged in within the Port Madison Reservation or Suquamish Indian lands which is contrary to the provisions of this chapter is hereby prohibited and declared unlawful and a public nuisance. The Suquamish Tribal Gaming Commission is authorized to apply to the tribal court for such adjudicative, injunctive, or declaratory relief as shall be required to abate any public nuisance under this section.

(b) Any person or entity violating any term or condition of any license issued pursuant to this chapter or any provision of a management contract issued pursuant to this chapter may be assessed a civil penalty by the tribal court under the procedures set out in §§11.5.80-11.5.82 but only after the schedule of those penalties has been first approved by the tribal council as set out in §11.5.79(a).

(c) The penalty assessed pursuant to §11.5.80(a) shall not exceed the greater of five thousand dollars (\$5,000) per violation or twice the amount of any grand prize awarded in a gaming activity which is directly associated with the violation. (Res. 2008-201 (part), passed Dec. 15, 2008)

**11.5.84. Fines.** (a) Fines may be established as liens upon specifically described property involved in a violation of this chapter by order of the Suquamish Tribal Court. In the case of real property, such order shall be filed for record notice with the Kitsap County or other county clerk and recorder where the real property is located. Liens on personal property shall be filed with the Secretary of State for the State of Washington. Upon twenty (20) days' written notice served by U.S. registered or certified mail or fifty (50) days' notice by publication with opportunity to request a hearing on the matter no later than ten (10) days after expiration of the notice period, the tribal court may order the property sold at public auction or forfeited to the Suquamish Tribe.

(b) Any person licensed by the commission who fails to pay a fine lawfully imposed through this chapter is subject to immediate suspension of his/her gaming license by the commission pending a hearing as set out in §11.5.56. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201 (part), passed Dec. 15, 2008)

**11.5.85. Removal of Persons from a Gaming Facility.** Tribal gaming inspectors shall have the power and authority to remove, exclude, or cause the removal or exclusion of any person from any gaming facility or surrounding parking area for a period of seventy-two (72) hours or with the written approval of the executive director or his designee until the next regular scheduled tribal gaming commission meeting, if in the sole determination of the gaming inspector and, as necessary, the executive director or his designee, the person is creating a threat to the public health or safety of the facility. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201 (part), passed Dec. 15, 2008)

**11.5.86. Permanent Exclusion of Persons from a Gaming Facility.** (a) The tribal gaming commission shall have the power and authority to permanently exclude any person from a gaming facility, if such person causes or has caused a serious or repeated disturbance, acts or has acted inappropriately, or in any other way interferes with or has interfered with the orderly conduct of ordinary business within the gaming facility.

(b) The request for permanent exclusion of a person may be brought only by an enforcement agent employed by the commission before a properly convened meeting of the commissioners. If the permanent exclusion requested is involuntary, the commission shall serve notice of the time and place of the hearing on the person to be barred at least five (5) days prior to the hearing. At the hearing, the person to be barred shall be entitled to make a statement to the commission and to challenge any evidence presented by the enforcement agent. The commissioners may consider the exclusion request in an open or a closed meeting. At the close of the hearing, the commission

shall render a decision. Except as otherwise provided in this chapter, the decision of the commission is final and not subject to judicial review.

(c) Any Suquamish Tribal member permanently and involuntarily barred from the gaming facility may, after one year from the date of exclusion, petition the Suquamish Tribal Council for readmittance to the facility on good cause shown. Good cause may be demonstrated by evidence of rehabilitation and evidence that the offending behavior is not likely to be repeated. The Suquamish Tribal Council shall have sole discretion to grant, deny, or grant with conditions readmittance to the gaming facility. The decision of the Suquamish Tribal Council is final and not subject to judicial review.

(d) Any patron who has requested a self-barring may, after one year from the date of exclusion, petition the tribal gaming commission for readmittance to the facility on good cause shown. Good cause may be demonstrated by evidence of rehabilitation and evidence that the person requesting readmittance is aware of problem gambling's effects on the person and is not likely to repeat the problem behavior. The tribal gaming commission shall have sole discretion to grant, deny, or grant with conditions readmittance to the gaming facility to a self-barred patron. The decision of the tribal gaming commission is final and not subject to appeal. Notwithstanding anything to the contrary in this section, the tribal gaming commission shall only provide this opportunity to a self-barred patron once and if the patron requests a self-barring again, then that patron may never again petition for readmittance to the facility.

(e) The tribal gaming commission shall establish a list of persons permanently excluded from the gaming facility who pose a threat to the integrity of tribal gaming activities because of their criminal history or association with one or more career offenders or career offender organizations.

(f) When the commission has determined that a person is permanently excluded from the gaming facility, that person's name shall be reported to the tribal gaming inspectors. At least quarterly, the tribal gaming commission shall send a copy of its list of excluded persons to the Washington State Gambling Commission and its enforcement agency, as well as to any other enforcement agency deemed appropriate by the commission to receive such information.

(g) The commission or any of its gaming inspectors shall notify the person permanently excluded of the commission's decision in writing, either by personally delivering the notice to the person or by mailing it by U.S. certified mail to the person's last known address.

(h) Except as authorized by §11.5.86(c) or §11.5.86(d), the tribal gaming commission shall employ its best efforts to keep excluded persons from entering into any Suquamish gaming facility. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201 (part), passed Dec. 15, 2008)

**11.5.87. Tribal Sovereignty and Jurisdiction.** The Suquamish Indian Tribe, by enactment of this chapter, intends to assert tribal sovereignty and jurisdiction on the Port Madison Reservation and over all lands subject to its jurisdiction and to preempt any civil regulatory power or law, if any, of the State of Washington, subject to IGRA, except as authorized under the tribal–state compact.

(a) Nothing in this chapter shall be deemed to constitute a waiver of sovereign immunity on the part of the Suquamish Tribal government, its agencies, or any entity created by either as to any assets or property of any nature whatsoever or the adjudication of any federal rights or immunities

(b) The Suquamish Tribal Court shall have exclusive jurisdiction over any action arising under this chapter, except to the extent federal law or the tribal–state compact provides otherwise.

(c) The Suquamish Tribal Court shall have exclusive civil and criminal jurisdiction under the Suquamish Tribal Code with respect to Class II and Class III gaming violations of this chapter perpetrated by Native Americans.

(d) The Suquamish Tribal Court shall have civil jurisdiction with respect to Class II and Class III gaming violations perpetrated by any person. Any person who enters a gambling facility within the Port Madison Reservation or is employed by the tribe, the tribe's enterprises, or the tribe's boards and commissions is deemed to have consented to the jurisdiction of the tribal court to enforce the provisions of this chapter.

(e) With respect to Class III gaming violations, the tribal gaming commission may also establish enforcement protocols with the State of Washington and other law enforcement agencies in accordance with the tribal–state compact. Nothing in this chapter shall be construed to authorize or require the criminal trial and punishment by the tribe of non-Indians except to the extent allowed or required by any applicable present or future act of Congress or any applicable federal court decision. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201 (part), passed Dec. 15, 2008)

**11.5.88. Appeals.** Any decision of the tribal gaming commission which is not subject to appeal under this chapter may be reviewed by the tribal court for the limited purpose of establishing whether procedural due process was provided by the commission in the decision for which remedy is sought. The sole remedy available in such a review proceeding shall be an order of the court remanding the matter to the gaming commission and directing the commission to comply with procedural due process requirements of this chapter. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201 (part), passed Dec. 15, 2008)

**11.5.89. Nonpreemption of Federal Laws.** Nothing herein shall be construed to supersede or preempt the criminal laws of the United States of America, insofar as said laws are found applicable to Indian gaming activities. (Res. 95-031 (part), passed Apr. 3, 1995)

**11.5.90. Cooperation with Law Enforcement.** Tribal gaming inspectors and tribal police officials shall cooperate with law enforcement officials of the State of Washington, the Bureau of Indian Affairs, the Federal Bureau of Investigation, and other law enforcement agencies to the extent required by the tribal–state compact, IGRA, or other applicable federal law. Law enforcement activities and responsibilities related to Class III gaming shall be consistent with and in accordance with the provisions of the tribal–state compact or any amendments thereto. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201 (part), passed Dec. 15, 2008)

**11.5.91. Severability; Construction.** If any phrase, clause, part, sentence, provision, or section of this chapter is found to be invalid by the Suquamish Tribal Court, the remainder of this chapter shall not be affected, shall remain in full force and effect, and shall continue in effect as if the invalid provision(s) were not a part hereof. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201 (part), passed Dec. 15, 2008)

**11.5.92. Contractual Obligations.** Nothing in this chapter shall impair or affect the authority of the commission or the tribal council in any manner whatsoever to fulfill its complete contractual obligations related to any subject matter herein. (Res. 95-031 (part), passed Apr. 3, 1995)

**11.5.93. Incorporation of Tribal–State Compact by Reference.** The provisions of the tribal–state compact are, by this reference, incorporated into this chapter as though fully set forth herein. (Res. 95-031 (part), passed Apr. 3, 1995)

**11.5.94. Designation of an Agent for Service of Process.** Consistent with 25 CFR 522.2(g) and 519.1, the tribal gaming commission shall designate an agent for service of any official determination, order, or notice of violation and advise the tribal council in writing of the designation. (Res. 95-031 (part), passed Apr. 3, 1995)

**11.5.95. Amendment.** All provisions of this chapter are subject to amendment by the Suquamish Tribal Council. All regulations promulgated by the commission are subject to revision, repeal, or amendment by the commission. (Res. 95-031 (part), passed Apr. 3, 1995)

**11.5.96. Effective Date.** This chapter shall become effective upon adoption by the Suquamish Tribal Council in accordance with the provisions of the Constitution and Bylaws of the Suquamish Tribe. (Res. 95-031 (part), passed Apr. 3, 1995)

**11.5.97. Repeal of Inconsistent Tribal Law.** To the extent they are inconsistent with this chapter, all prior gaming codes or ordinances or other provisions of tribal law related to gaming are hereby repealed, are of no further force and effect, and are replaced by this chapter. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201 (part), passed Dec. 15, 2008)